UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF NORTH CAROLINA

LOCAL RULES
of
PRACTICE AND PROCEDURE

June 2009 Edition

I. Civil Rules

Rule 1.1

SCOPE AND CITATION OF LOCAL RULES

These local rules of practice shall govern the conduct of the United States District Court for the Eastern District of North Carolina except when the conduct of this court is governed by federal statutes and rules. A judge or magistrate judge, for good cause and in his or her discretion, may alter these rules in any particular case. These rules shall be cited: "Local Civil Rule ____, EDNC."

Rule 2.1

Reserved for Future Purposes

Rule 3.1

SUBSEQUENT LITIGATION BY PARTIES PROCEEDING *IN FORMA PAUPERIS*

A plaintiff who has proceeded unsuccessfully *in forma pauperis* and had the costs of that litigation taxed against him must demonstrate that he has paid or made a reasonable effort to pay those costs prior to being authorized to proceed again *in forma pauperis*.

Rule 3.2

DENIAL OF *IN FORMA PAUPERIS* APPLICATIONS

In all civil actions in which the court denies the plaintiff's motion to proceed *in forma pauperis*, the plaintiff shall be allowed thirty (30) days to pay the requisite filing fee. If the plaintiff fails to pay the filing fee, the clerk shall redesignate the action as a miscellaneous case and close the matter without further order from the court.

Rule 3.3

DISCLOSURE STATEMENTS IN *PRO SE* LITIGATION

As part of making an appearance in every case, all *pro se* litigants (other than prisoners) shall file contemporaneously a disclosure statement in accordance with Fed. R. Civ. P. 7.1 and Local Civil Rule 7.3.

Rule 4.1

Reserved for Future Purposes

Rule 5.1

FILING AND SERVICE OF PAPERS BY CONVENTIONAL MEANS

(a) **Electronic Filing**

(1) **Parties' Pleadings and Other Documents**

Unless otherwise permitted by the Electronic Case Filing Administrative Policies and Procedures Manual (Policy Manual), or otherwise authorized by the assigned judge, all documents submitted for filing shall be filed electronically using the Case Management/Electronic Case Filing system (CM/ECF) and in accordance with the Policy Manual. A document shall not be considered filed for the purposes of the Federal Rules of Civil, Criminal or Appellate Procedure until the filing party receives a system generated Notice of Electronic Filing (NEF). Any document electronically filed or converted by the clerk's office to electronic format shall be the official record of the court. As such, the clerk's office will not maintain a paper record of these documents. The clerk's office will not accept any facsimile transmission for filing unless ordered by the court.

(2) **Court-Generated Documents**

All orders, decrees, judgments, and proceedings of the court will be filed in accordance with the Policy Manual, which shall constitute entry of that document on the docket kept by the clerk under Rules 58 and 79 of the Federal Rules of Civil Procedure. All signed orders will be filed electronically by the court or court personnel. Any order or other court-issued document filed electronically without the original signature of a judge or clerk has the same force and effect as if the judge or clerk had signed a paper copy of the order or other court-issued document and it had been entered on the docket in a conventional manner. Orders may be 'text only' entries on the docket, without an attached document. Such orders are official and binding.

(b) **Registered User**

Only an attorney who is registered in CM/ECF may file documents electronically. Registration constitutes consent to service of all documents by electronic means as provided by the federal rules and the Policy Manual.

(c) **Signature**

The electronic filing of a document by an attorney who is a registered user shall constitute the signature of that attorney under Rule 11 of the Federal Rules of Civil Procedure. No attorney shall knowingly permit or cause to permit the attorney's CM/ECF password to be used by anyone other than an authorized employee of the attorney's law firm. No person shall knowingly use or cause another person to use the password of a registered attorney unless such person is an authorized employee of the attorney's law firm.

(d) **Entry on Docket**

The electronic filing of a document in accordance with the Policy Manual shall constitute entry of that document on the docket kept by the clerk under Rule 79 of the Federal Rules of Civil Procedure. Except in the case of documents first filed in paper, a document filed electronically is deemed filed at the date and time stated on the NEF that is automatically generated by CM/ECF.

(e) **Service of Document**

Transmission of the NEF that is automatically generated by CM/ECF, except as provided in (f) below, constitutes service of the filed document on registered party users. Parties who are not registered users must be served with a copy of any document filed electronically in accordance with the Federal Rules of Civil Procedure. When more than one attorney in a law firm appears in a case, and not all of the attorneys are registered filing users, service of any court-generated document (i.e., orders, notices, etc.) will only be made on the attorneys registered in CM/ECF. It is the responsibility of the law firm's electronic users to notify all other firm members appearing in the case who are not receiving electronic notification. Non-registered attorneys will not receive paper copies from the court.

(f) **Exceptions to Electronic Filing**

Documents filed by a party who is not represented by an attorney permitted to practice in the Eastern District of North Carolina and registered in CM/ECF, and those documents listed in Section H of the Policy Manual, shall be filed in paper, and are excluded from electronic filing. Any document filed in paper that is not exempt pursuant to this section must be accompanied by a motion for leave to file the document and a proposed order. When filing in paper form, the document must have an original signature, and must be served upon opposing parties as provided in Rule 5(b) of the Federal Rules of Civil Procedure.

Rule 5.2

[FILING DOCUMENTS BY ELECTRONIC MEANS]

Rescinded effective June 30, 2009, reserved for future use

Rule 5.3

[SERVICE OF DOCUMENTS BY ELECTRONIC MEANS]

Rescinded effective June 30, 2009, reserved for future use

Rule 6.1

MOTIONS FOR AN EXTENSION OF TIME TO PERFORM ACT

All motions for an extension of time to perform an act required or allowed to be done within a specified time must show good cause, prior consultation with opposing counsel and the views of opposing counsel. The motion must be accompanied by a separate proposed order granting the motion.

Rule 7.1

MOTION PRACTICE

(a) Time for Filing. All motions in civil cases except those relating to the admissibility of evidence at trial must be filed on or before thirty (30) days following the conclusion of the period of discovery. If an extension of the original period of discovery is approved by the court, the time for filing motions is automatically extended to thirty (30) days after the new date unless otherwise ordered by the court.

(b) General Requirements. All motions shall be concise and shall state precisely the relief requested. Motions shall conform to the general motions requirements, standards and practices set forth in the applicable Federal Rules of Civil Procedure and in Local Civil Rule 10.1.

(c) Motions Relating to Discovery and Inspection. No motions to compel discovery will be considered by the court unless the motion sets forth, by item, the specific question, interrogatory, etc. with respect to which the motion is filed, and any objection made along with the grounds supporting or in opposition to the objection. Counsel must also certify that there has been a good faith effort to resolve discovery disputes prior to the filing of any discovery motions.

(d) Supporting Memoranda. Except for motions which the clerk may grant as specified in Local Civil Rule 77.2, all motions made other than in a hearing or trial shall be filed with an accompanying supporting memorandum in the manner prescribed by Local Civil Rule 7.2(a). Where appropriate, motions shall be accompanied by affidavits or other supporting documents.

(e) Responses to Motions. Any party may file a written response to any motion. The response may be a memorandum in the manner prescribed by Local Civil Rule 7.2(a) and may be accompanied by affidavits and other supporting documents. When the response is not a memorandum, the written response shall be accompanied by a supporting memorandum in the manner prescribed by Local Civil Rule 7.2(a) and, when appropriate, by affidavits and other supporting documents.

(1) **Non-Discovery Motions:** Responses and accompanying documents shall be filed within 20 days after service of the motion in question unless otherwise ordered by the court or prescribed by the applicable Federal Rules of Civil

Procedure.

(2) **Discovery Motions:** Responses and accompanying documents relating to discovery motions shall be filed within ten (10) days after service of the motion in question unless otherwise ordered by the court.

(f) Replies.

(1) **Non-Discovery Motions:** Replies to responses are discouraged. However, except as provided in Local Civil Rule 7.1(f)(2), a party desiring to reply to matters initially raised in a response to a motion or in accompanying supporting documents shall file the reply within ten (10) days after service of the response, unless otherwise ordered by the court.

(2) **Discovery motions:** Replies are not permitted in discovery disputes. See Local Civil Rule 26.1(d).

(g) Subsequently Decided Authority. A suggestion of subsequently decided controlling authority, without argument, may be filed at any time prior to the court's ruling and shall contain only the citation to the case relied upon if published or a copy of the opinion if the case is unpublished.

(h) Affidavits. Ordinarily, affidavits will be made by the parties and other witnesses and not by counsel for the parties. However, affidavits may be made by counsel for a party if the sworn facts are known to counsel or counsel can swear to them upon information and belief, and

(1) the facts relate solely to an uncontested matter; or

(2) the facts relate solely to a matter of formality and there is no reason to believe that substantial evidence will be offered in opposition to the facts; or

(3) the facts relate solely to the nature and value of the legal services rendered for the party by such counsel or counsel's law firm; or

(4) the refusal to accept the affidavit would work a substantial hardship on the party and the court finds that its acceptance of the affidavit would not be such as to require that counsel or counsel's law firm be disqualified from continuing to appear for the party.

(i) Hearings on Motions. Hearings on motions may be ordered by the court in its discretion. Unless so ordered, motions shall be determined without hearing.

Rule 7.2

SUPPORTING MEMORANDA

(a) Form and Content. A memorandum shall be in the form prescribed by Local Civil Rule 10.1 and shall contain:

(1) a concise summary of the nature of the case;

(2) a concise statement of the facts that pertain to the matter before the court for ruling;

(3) the argument (brevity is expected) relating to the matter before the court for ruling with appropriate citations in accordance with Local Civil Rules 7.2(b), (c) and (d);

(4) copies of any decisions in cases cited as required by Local Civil Rules 7.2(c) and (d); and

(5) where the supporting memorandum opposes a motion for summary judgment a short and concise statement of the material facts as to which it is contended that there exists a genuine issue to be tried.

(b) Citation of Published Decisions. Published decisions cited should include parallel citations (except for U.S. Supreme Court cases), the year of the decision, and the court deciding the case. The following are illustrations:

(1) State Court Citation: *Rawls v. Smith*, 238 N.C. 162, 77 S.E.2d 701 (1953).

(2) District Court Citation: *Smith v. Jones*, 141 F. Supp. 248 (E.D.N.C. 1956).

(3) Court of Appeals Citation: *Smith v. Jones*, 237 F.2d 597 (4th Cir. 1956).

(4) United States Supreme Court Citation: *Smith v. Jones*, 325 U.S. 196 (1956). United States Supreme Court cases should be cited only to the United States Reports except that if a petition for certiorari or an appeal was filed in the United States Supreme Court, the disposition of the case in that court should always be shown. For example: *Carson v. Warlick*, 238 F.2d 724 (4th Cir. 1956), *cert. denied*, 353 U.S. 910 (1957).

(c) Citation of Decisions Not Appearing in Certain Published Reports. Decisions published outside the West Federal Reporter System, the official North Carolina reports and the official United States Supreme Court reports (e.g. CCH Tax Reports, Labor Reports, U.S.P.Q., reported decisions of other states or other specialized reporting services) may be cited if the decision is furnished to the court and to opposing parties or their counsel when the memorandum is filed.

(d) Citation of Unpublished Decisions. Unpublished decisions may be cited only if the unpublished decision is furnished to the court and to opposing parties or their counsel when the memorandum is filed. The unpublished decision of a United States District Court may be considered by this court. The unpublished decision of a United States Circuit Court of Appeals will be given due consideration and weight but will not bind this court. Such unpublished decisions should be cited as follows: *United States v. John Doe*, 5:94-CV-50-F (E.D.N.C. January 7, 1994) and *United States v. Norman*, No. 74-2398 (4th Cir. June 27, 1975).

(e) Length of Memoranda. Except as otherwise provided by Local Civil Rule 26.1(d), memoranda in support of or in opposition to a motion (other than a motion regarding discovery) shall not exceed thirty (30) pages in length excluding the certificate of service page, without prior court approval. Memoranda in support of or in opposition to a discovery motion shall not exceed ten (10) pages in length, excluding the certificate of service page, without prior court approval. Reply memoranda (where allowed) shall not exceed ten (10) pages in length, excluding the certificate of service page, without prior court approval. These limitations apply to memoranda submitted in connection with an appeal in a bankruptcy proceeding.

Rule 7.3

DISCLOSURE OF CORPORATE AFFILIATIONS AND OTHER ENTITIES WITH A DIRECT FINANCIAL INTEREST IN LITIGATION

(a) All parties to a civil or bankruptcy case whether or not they are covered by the terms of Fed. R. Civ. P. 7.1, shall file a corporate affiliate/financial interest disclosure statement. This rule does not apply to the United States or to state and local governments in cases in which the opposing party is proceeding without counsel.

(b) The statement shall set forth the information required by Fed. R. Civ. P. 7.1 and the following:

> **(1)** A trade association shall identify in the disclosure statement all members of the association, their parent corporations, and any publicly held companies that own 10% or more of a member's stock.
>
> **(2)** All parties shall identify any publicly held corporation, whether or not a party to the present litigation, that has a direct financial interest in the outcome of the litigation by reason of a franchise, lease, other profit sharing agreement, insurance, or indemnity agreement.
>
> **(3)** Whenever required by Fed. R. Civ. P. 7.1 or this rule to disclose information about a corporation that has issued shares to the public, a party shall also disclose information about similarly situated master limited partnerships, real estate investment trusts, or other legal entities whose shares are publicly held or traded.

(c) The disclosure statement shall be on a form provided by the clerk. A negative statement is required if a party has no disclosures to make.

(d) The disclosure statement shall be filed when the party makes an initial appearance in the action. The parties are required to amend their disclosure statements when necessary to maintain their current accuracy.

Rule 7.4

EX PARTE MOTIONS

Unless the related case is already under seal, an *ex parte* motion shall only be sealed upon specific order of the court. A motion requesting permission to file an *ex parte* motion under seal shall include the *ex parte* motion as an attachment. The clerk shall treat the motion to seal and attachment as sealed pending order of the court.

Rule 8.1

Reserved for Future Purposes

Rule 9.1

Reserved for Future Purposes

Rule 10.1

FORMS OF PLEADINGS, MOTIONS AND DOCUMENTS

All pleadings, motions, discovery procedures, memoranda and other papers filed with the clerk or the court shall:

(a) be double-spaced on single-sided, standard letter size (8 ½ x 11) paper, with all typed matter appearing in at least 11 point font size with a one inch margin on all sides;

(b) state the court and division in which the action is pending;

(c) bear, except for initial filing, the case number assigned by the clerk;

(d) contain the caption of the case;

(e) if applicable, state the title of the pleading, motion, discovery procedure or document and the federal statute or rule number under which the party is proceeding;

(f) contain the individual name, firm name, address, telephone number, fax number and State Bar identification, where applicable, of all attorneys who appear for the filing party, including an attorney making a special appearance pursuant to Local Civil Rule 83.1(e);

(g) bear the date when signed by counsel;

(h) be signed by counsel as required by Local Civil Rule 83.1(d)/Local Civil Rule 83.1(d) counsel may submit for filing a facsimile copy of the signature of out of state counsel on pleadings provided that a signature page with all original signatures is submitted to the court within two business days after the original filing;

(i) on all documents, the signature of parties and counsel shall be followed, on the line immediately below, by the typed or printed name in the exact form as the signature. In preparation of documents for signature by a judge or magistrate judge, a blank space shall be provided below the signature line in which the name may be typed or printed; and

(j) have each page numbered sequentially. The following forms are examples to be followed:

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. __:____-CV-___(_)

JAMES T. SMITH, Plaintiff,	))	
	)	OFFER OF JUDGMENT
vs.	)	FED. R. CIV. P. 68
	)	
AARON R. JONES et al., Defendants.	))	

(Closing)

This ____ day of January 1998.

_____
John B. Counselor
Attorney for Defendant

Abbot, Ball and Counselor
Attorneys at Law
200 Main Street
Post Office Box 50
Raleigh, North Carolina 27602
John.B.Counselor@email.address.com
(919) 878-8787
Fax (919) 878-8000
State Bar No. _____

Rule 10.2

FORM OF EXHIBITS TO MOTIONS

Exhibits containing double-sided documents are not permitted and will not be considered by the court. Condensed deposition transcripts are discouraged.

[Rule 10.3]

[Implementing Requirements of the E-Government Act of 2002]
(Rescinded eff. December 1, 2007)
see Civ. R. 5.2

Rule 11.1

FRIVOLOUS OR DELAYING MOTIONS

Where the court finds that a motion is frivolous or filed for delay, costs may be assessed against the party or counsel filing such motion.

Rule 11.2

SANCTIONS

If an attorney or any party fails to comply in good faith with any local rule of this court, the court in its discretion may impose sanctions.

Rule 11.3

DISCLOSURE STATEMENTS

(a) As part of making an appearance in every case, an attorney shall include the attorney's name and the name of the attorney's law firm. The attorney also shall file contemporaneously a client disclosure statement in accordance with Fed. R. Civ. P. 7.1 and Local Civil Rule 7.3.

(b) As part of making an appearance in every case, all pro se litigants (other than prisoners) shall file contemporaneously a disclosure statement in accordance with Fed. R. Civ. P. 7.1 and Local Civil Rule 7.3.

Rule 12.1

Reserved for Future Purposes

Rule 13.1

Reserved for Future Purposes

Rule 14.1

Reserved for Future Purposes

Rule 15.1

Reserved for Future Purposes

Rule 16.1

FINAL CIVIL PRE-TRIAL CONFERENCE

(a) Scheduling and Notice. A final pre-trial conference shall be scheduled in every civil action after the time for discovery has expired. In most actions, the clerk shall give at least twenty-five (25) days notice of such conference. In the court's discretion and upon request of any party or on the court's own initiative, a preliminary or "working" pre-trial conference may be scheduled.

(b) Preparation by Counsel for Final Pre-Trial Conference.

(1) At least twenty-five (25) days before the pretrial conference, all parties must provide to all other parties the pretrial disclosures required under Federal Rule of Civil Procedure 26(a)(3). Seventeen (17) days before the pretrial conference, a party may designate and serve any objections listed in Fed. R.Civ. P. 26(a)(3). The parties' Rule 26(a)(3) disclosures, and objections thereto, shall be incorporated into the final pretrial order, consistent with Local Civil Rule 16.1(c). The pretrial order must be submitted to the court five (5) business days prior to the pretrial conference.

(2) In preparing for the pretrial conference, the parties shall confer and prepare a final pretrial order. It shall be the duty of counsel for the plaintiff to arrange for this conference. Where video depositions are to be used, parties should endeavor to reach early agreement on editing; where agreement cannot be reached, required rulings by the court should be sought in sufficient time to allow for final edited versions of depositions to be used at trial.

(c) Form of Pre-Trial Order. The pre-trial order shall be prepared in one sequential document without reference to attached exhibits or schedules and shall contain the following in five (5) separate sections, numbered by roman numerals, as indicated:

(1) **Stipulations.** Stipulations covering jurisdiction, joinder, capacity of the parties, all relevant and material facts, legal issues and factual issues.

(2) **Contentions.** Contentions covering matters on which the parties have been unable to stipulate, including jurisdiction, misjoinder, capacity of the parties, relevant and material facts, legal issues and factual issues. Claims and defenses as to which no contentions are listed in the pre-trial order are deemed abandoned.

(3) **Exhibits.** A list of exhibits that each party may offer at trial, including any map or diagram, numbered sequentially, which numbers shall remain the same throughout all further proceedings. Copies of all exhibits shall be provided to opposing counsel not later than the attorney conference provided for in Local Civil Rule 16.1(b). The court may excuse the copying of large maps or other exhibits. Except as otherwise indicated in the pre-trial order, it will be deemed that all parties stipulate that all exhibits are authentic and may be admitted into evidence without further identification or proof. Grounds for objection as to authenticity or admissibility must be set forth in the pre-trial order. When practicable, trial exhibits should carry the same number as in the depositions and references to exhibits in depositions should be changed to refer to the trial exhibit number. It is not necessary to designate exhibits that are to be used solely for impeachment or cross-examination.

(4) **Designation of Pleadings and Discovery Materials.** The designation by line and page of all portions of pleadings and discovery materials, including depositions, interrogatories and requests for admission that each party may offer at trial by reference to document volume, page number, and line. Objection by opposing counsel shall be noted by document volume, page number and line, and reasons for such objections shall be stated. It is not necessary to designate a deposition, any other discovery material, or any portion of a deposition, that is to be used solely for impeachment or cross-examination.

(5) **Witnesses.** A list of the names and addresses of all witnesses each party may offer at trial, together with a brief statement of what counsel proposes to establish by their testimony.

(d) Conduct of the Final Pre-Trial Conference.

(1) **Purpose**. To resolve any disputes concerning the contents of the pre-trial order.

(2) **Preparation.** Counsel shall be fully prepared to present to the court all information and documentation necessary for completion of the pre-trial order. Failure to do so shall result in the sanctions provided by this local rule.

(3) **Sanctions.** Failure to comply with the provisions of Local Civil Rule **16.1(d)(2)** may result in the imposition of a monetary fine not to exceed $250.00 against the offending counsel and may result in any other sanction allowable by the Federal Rules of Civil Procedure against the parties or their counsel.

(4) Counsel for all parties shall be responsible for preparing the final pre-trial order and presenting it to the court properly signed by all counsel at a time designated by the court. Upon approval by the court, the original shall be filed with the clerk. Failure to provide a unified pre-trial order may result in sanctions being imposed against all parties to the action.

(e) Sample Pre-Trial Order. A pre-trial order in the following form shall be sufficient to comply with these local rules:

JOHN DOE, by his guardian ad litem, JANE DOE) No. 5:94-CV-125-F
Plaintiff)
)
V.) PRE-TRIAL ORDER
)
XYZ CORPORATION)
Defendant)

Date of Conference: August 12, 1998

Appearances: John Y. Lawyer, Raleigh, North Carolina for plaintiff;
Sam X. Attorney, Fayetteville, North Carolina for defendant.

I. STIPULATIONS.

A. all parties are properly before the court;
B. the court has jurisdiction of the parties and of the subject matter;
C. all parties have been correctly designated;
D. there is no question as to misjoinder or nonjoinder of parties;
E. plaintiff, a minor, appears through his or her guardian;
F. Facts:
1. Plaintiff is a citizen of Wake County, North Carolina.
2. Defendant is a New York corporation, licensed to do business and doing business in the State of North Carolina.
G. Legal Issues:
May a nine-year old minor be guilty of contributory negligence?
H. Factual Issues:
1. Was plaintiff injured and damaged by the negligence of the defendant?
2. What amount, if any, is plaintiff entitled to receive of defendant as compensatory damages?

II. CONTENTIONS.

A. Plaintiff
1. Facts:
(a) That Richard Roe was driving defendant's truck as defendant's agent.

(b) That Richard Roe was negligent in that he drove at an excessive speed and while under the influence of intoxicating liquor.

2. Factual Issues:

What amount, if any, is plaintiff entitled to recover of defendant as punitive damages?

B. Defendant

1. Facts:

That Richard Roe, a former employee, took defendant's truck without authorization and, at the time of the accident, was not the agent or employee of defendant.

2. Factual Issues:

Did plaintiff, by his or her own negligence, contribute to his or her injury and damage?

III. EXHIBITS.

A. Plaintiff

Number	Title	Objection
l	Patrol Report	Hearsay
2	Photo of Plaintiff	

B. Defendant

Number	Title	Objection
l	Photo of Scene	
2	Scale Model	

IV. DESIGNATION OF PLEADINGS AND DISCOVERY MATERIALS

A. Plaintiff

Document	Portion	Objection	Reason
Plaintiff's first set of interrogatories	Nos. 1,8 and 9	No. 8	Privilege
Deposition of Richard Roe	Vol. 1, line 6, p. 1 thru line 5, p. 6	Line 6, p. 1 thru line 2, p. 7	Hearsay

B. Defendant

None

V. WITNESSES

A. Plaintiff

Name	Address	Proposed Testimony
John Jones	615 Rains Street Raleigh, N.C.	Facts surrounding accident, extent of
Frank Flake	Selma, N.C.	Speed of defendant's

Joe Rock	Temple, AR.	vehicle, intoxication of driver

B. Defendant

All witnesses listed by plaintiff.

Name	Address	Proposed Testimony
Sam Smith	4 Appian Way Rome, Italy	Facts surrounding the theft by driver of the vehicle

TRIAL TIME ESTIMATE: _____ days

_____
JOHN Y. LAWYER
Counsel for Plaintiff

_____
SAM X. ATTORNEY
Counsel for Defendant

APPROVED BY:

_____
BILL JONES
U.S. MAGISTRATE JUDGE
_____, 200_

Rule 17.1

MINORS AND INCOMPETENTS AS PARTIES

(a) Representation. Representation of minor and incompetent parties in a civil action shall be in accordance with FED. R. CIV. P. 17(c). Appointments of guardians *ad litem* by any state court shall satisfy the requirements of the Federal Rules of Civil Procedure unless the court finds that the interests of the parties so represented are not being adequately protected.

(b) Settlement or Dismissal of Actions. No civil action to which a minor or incompetent person is a party shall be compromised, settled, discontinued, or dismissed without an Order of Approval entered by the court. It shall be the responsibility of counsel for the minor or incompetent parties to prepare a proposed Order of Approval for submission to the court. The Order of Approval shall bear the written consent of (1) counsel for all the parties to the action, (2) the legal representative of minor or incompetent parties, and (3), in the case of minors, at least one of the natural parents or persons standing *in loco parentis*. Unless otherwise ordered by the court, the Order of Approval shall contain statements as to the following:

(1) that all parties are properly represented and are properly before the court; that no questions exist as to

misjoinder or nonjoinder of parties; and that the court has jurisdiction over the subject matter and the parties;

(2) if the minor or incompetent parties are plaintiffs, a summary of contentions sufficient to show that the complaint states a claim upon which relief can be granted; if the minor or incompetent parties are defendants, a statement of contentions sufficient to show that no affirmative defenses could clearly be raised in bar of recovery;

(3) a summary of services rendered by counsel for the minor or incompetent parties, along with an opinion as to the fairness and reasonableness of the settlement, if any; and

(4) in cases involving claims for personal injuries asserted by minor or incompetent parties, an estimate of actual and foreseeable medical, hospital and related expenses and a statement by an examining physician setting forth the nature and extent of the plaintiff's injuries, extent of recovery and prognosis.

(c) Approval of Counsel Fees and Payment of Judgments. In its Order of Approval, the court shall approve or fix the amount of the fee to be paid to counsel for the minor or incompetent parties and make appropriate provision for the payment thereof. The Order of Approval shall also provide the manner in which judgments, if any, are to be paid and may make specific provisions for the payment of medical, hospital and similar expenses when allowed by applicable law

(d) In compliance with the E-Government Act of 2002, and to promote electronic access to case files while also protecting personal privacy and other legitimate interest, all parties to any litigation in which minor is a party, with the exception of the paper administrative records in Social Security cases filed with the court, shall redact the minor child's name from all documents filed with the court. If the name of the minor must be included in a document, including the caption, only the initials of the child should be used..

Rule 18.1

Reserved for Future Purposes

Rule 19.1

Reserved for Future Purposes

Rule 20.1

Reserved for Future Purposes

Rule 21.1

Reserved for Future Purposes

Rule 22.1

Reserved for Future Purposes

Rule 23.1

Reserved for Future Purposes

Rule 24.1

Reserved for Future Purposes

Rule 25.1

Reserved for Future Purposes

Rule 26.1

DISCOVERY

(a) Discovery Materials Not to Be Filed Unless Ordered or Needed. Discovery materials, including but not limited to disclosures and objections required under FED. R. CIV. P. 26, depositions upon oral examination and interrogatories, requests for documents, notices to take a deposition, expert witness designations, expert witness reports, requests for admissions, and answers and responses thereto are not to be filed unless by order of the court or for use in the proceedings. All such papers must be served on other counsel or parties entitled to service of papers filed with the clerk. The party taking a deposition or obtaining any material through discovery is responsible for its preservation and delivery to the court if needed or so ordered.

(b) Conducting Discovery. In all civil actions, the parties shall schedule and conduct discovery in accordance with the order entered pursuant to FED. R. CIV. P 16. All discovery shall be propounded so as to allow the respondent sufficient time to answer prior to the time when discovery is scheduled to be completed. To shorten discovery time, it is expected that discovery procedures will proceed concurrently. After the time for completing discovery has expired, further discovery may proceed only by order of the court and may, in no event, interfere with the conduct of either the final pre-trial conference or the trial.

(c) Numbering Discovery Procedures. Each time a particular discovery procedure is used, it shall be sequentially numbered (e.g., "First Set," "Second Set," "First Request," "Second Request," etc.) so that it will be distinguishable from a prior procedure.

(d) Discovery Disputes - Expedited Briefing Schedule. Any motion relating to a discovery conflict shall be handled on an expedited basis:

(1) Memoranda in support or in opposition to a discovery motion shall not exceed ten (10) pages in length, excluding the certificate of service page, and shall comply with Local Civil Rule 7.1(d).

(2) Responses and accompanying documents relating to discovery motions shall be filed within ten (10) days after service of the motion in question unless otherwise ordered by the court.

(3) Replies are not permitted in discovery disputes.

(4) In any instance in which oral argument is scheduled, counsel may be given the option of oral presentations by telephone in lieu of a live appearance.

(e) Other Discovery Matters

1) Through appropriate written discovery, a party may obtain discovery of the existence and contents of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in an action or to indemnify or reimburse for payments made to satisfy the judgment. The discovery permitted shall include inspection and copying of such agreement pursuant to FED. R. CIV. P. 34. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial. For purposes of this subparagraph, an application for insurance shall not be treated as part of an insurance agreement.

2) In accordance with FED. R. CIV. P. 16(b), this court will routinely issue an order for a discovery plan and will thereafter enter a scheduling order. The planning meeting of counsel required by FED. R. CIV. P. 26(f) and the report of counsel contemplated by said rule are a mandatory part of the process of formulating a scheduling order. A report in accordance with Form 52 shall be sufficient to comply with FED. R. CIV. P. 26(f), although the parties may include greater detail or additional topics. If the parties cannot agree on a joint report, each party shall file a separate Rule 26(f) report setting forth its position on disputed matters. The parties may include in their report an agreement to mediate and a proposed time table for conducting that mediation.

Rule 27.1

Reserved for Future Purposes

Rule 28.1

Reserved for Future Purposes

Rule 29.1

Reserved for Future Purposes

Rule 30.1

DEPOSITION EXHIBITS

The parties are encouraged to mark all deposition exhibits consecutively during discovery without reference to the deposition taken or the party using the exhibit.

Rule 31.1

Reserved for Future Purposes

Rule 32.1

DEPOSITIONS FOR USE AT TRIAL

Depositions *de bene esse* may be taken outside of the period of discovery.

Rule 33.1

FORM OF INTERROGATORIES, RESPONSES AND OBJECTIONS

All interrogatories shall be served on opposing counsel. Counsel are encouraged to also provide interrogatories in a format that is electronically fillable to facilitate response.

Rule 34.1

REQUEST FOR PRODUCTION

All Rule 34 requests shall be served on opposing counsel. Counsel are encouraged to also provide such requests in electronic form to facilitate response.

Rule 35.1

Reserved for Future Purposes

Rule 36.1

REQUESTS FOR ADMISSION

All requests for admission shall be served on opposing counsel. Counsel are encouraged to also provide such requests in electronic form to facilitate response.

Rule 37.1

Reserved for Future Purposes

Rule 38.1

Reserved for Future Purposes

Rule 39.1

ATTORNEY PREPARATIONS FOR TRIAL

(a) In General. Five (5) business days preceding the first day of the session at which a civil action is set for trial, counsel for all parties shall file with the clerk:

(1) A concise memorandum of authorities on all anticipated evidentiary questions and on all contested issues of law;

(2) Motions relating to the admissibility of evidence; however, no party shall be required to file a written response to a motion in limine which is filed after the pre-trial conference has taken place.

(b) Exhibits.

(1) All exhibits shall be pre-marked with stickers available at the clerk's office with the sequential numbers as listed in the pre-trial order. Each exhibit at trial shall contain the case number of the action on the exhibit sticker and a party designation where there are different plaintiffs and defendants introducing exhibits.

(2) Copies of all exhibits, properly bound, shall be provided to the court at the beginning of the trial.

(3) The original shall bear a sticker. After receipt into evidence, it shall remain in the custody of the courtroom deputy, except when being used by a witness or viewed by the jury.

(4) Copies of all exhibits shall bear the photostatic image of the sticker or a typed or printed reproduction thereof.

(5) Counsel are encouraged to provide one (1) or more copies of exhibits for use by the jury.

(6) Upon presentation of an exhibit to a witness, counsel shall announce to the court the exhibit number. The exhibit shall not be handed to opposing counsel. Should opposing counsel contend that a copy has not been provided or that the exhibit has been lost or misplaced, that shall be brought to the attention of the court.

(c) Related Rules. The parties shall comply, as provided therein, with Local Rules 16.1, 51.1, and 52.1.

Rule 39.2

LATE DEVELOPMENTS IN THE CASE

Counsel shall immediately inform the court, opposing counsel and counsel in the next succeeding two (2) cases on the calendar of any settlement or of any developments of an emergency which may necessitate a motion for continuance.

Rule 39.3

OPENING STATEMENTS

At the beginning of the trial, each party (beginning with the party having the burden of proof on the first issue) shall, without argument and in such reasonable time as the court allows, state to the court and the jury the following:

(a) the substance of the claim, counterclaim, cross claim or defense; and

(b) what counsel contends the evidence will show. Parties not having the burden of proof on the first issue may elect to make an opening statement immediately prior to presenting evidence, rather than at the beginning of the trial.

Rule 39.4

CLOSING STATEMENTS

The court will set the times for closing argument after consultation with parties. Unless otherwise ordered by the court, the party with the burden of proof shall open and close the arguments.

Rule 40.1

COURT SCHEDULE AND CONDUCT OF BUSINESS

(a) Headquarters of the Clerk. The headquarters of the clerk of court shall be in Raleigh.

(b) Divisions of the District. There shall be four (4) divisions of the court. Headquarters of each division and the counties comprising each division are as follows:

Name of Division	Headquarters	Counties	
Northern Division	Elizabeth City	Bertie	Hertford
		Camden	Northampton
		Chowan	Pasquotank
		Currituck	Perquimans
		Dare	Tyrrell
		Gates	Washington
Eastern Division	Greenville	Beaufort	Hyde
		Carteret	Jones
		Craven	Lenoir
		Edgecombe	Martin
		Greene	Pamlico
		Halifax	Pitt
Western Division	Raleigh	Cumberland	Vance
		Franklin	Wake
		Granville	Warren
		Harnett	Wayne
		Johnston	Wilson
		Nash	
Southern Division	Wilmington	Bladen	Onslow
		Brunswick	Pender
		Columbus	Robeson
		Duplin	Sampson
		New Hanover	

(c) Assignment of Cases to a Division.

(1) Civil Actions. The clerk shall assign all civil actions to a division when the action is filed or removed. If one or more plaintiffs are residents of this District, the clerk shall assign the case to the division in which the first named such plaintiff resides. If no plaintiff resides in the District and one or more defendants reside in the District, the clerk shall assign the action to the division in which the first named such defendant resides. In the event no party resides in the District but the claim is alleged to have arisen in the District or to involve real property in the District, the clerk shall assign the action to the division in which such claim is alleged to have arisen or in which the real property is situated. In all other instances, a case shall be assigned to a division in the discretion of the clerk. In removed actions, the matter will be assigned to the division in which the state court is located from which the action is removed.

(2) Residence of Corporation. For the purposes of this Local Rule, a corporate plaintiff shall be deemed to reside in the state in which it was incorporated and in the district and division in which it has its principal office; and, a corporate defendant shall be deemed to reside in the division in which the corporation is alleged (a) to be incorporated and have its principal office, or (b) to be licensed to do business or (c) to be doing business.

(3) United States as Plaintiff. For the purposes of this Local Rule, in cases where the United States, its

agencies or officers acting in an official capacity is the plaintiff**,** it shall be deemed that such plaintiff does not reside in this district.

(d) Scheduling Trials. Each judicial officer shall maintain an individual trial calendar with due regard for the priorities and requirements of law. Selected cases may be expedited by the judicial officer on his or her own motion, or on the motion of any party.

Rule 40.2

ELECTRONIC DESIGNATION OF JUDGES

Any electronically generated designation of a district judge or magistrate judge does not mean that the judge so designated is assigned to the case.

Rule 41.1

Reserved for Future Purposes

Rule 42.1

Reserved for Future Purposes

Rule 43.1

Reserved for Future Purposes

Rule 44.1

Reserved for Future Purposes

Rule 45.1

WITNESSES

Counsel may not release a person from a subpoena without notice to opposing counsel and leave of court. A party objecting to the release of a person shall bear all costs incident to such person which arise subsequent to the request for release. The court may, in its discretion and in the interest of justice, permit a party to call and examine a witness not listed in the final pre-trial order.

Rule 46.1

Reserved for Future Purposes

Rule 47.1

JURORS

(a) Jury Lists. When the jury for a session of the court is drawn, the clerk shall furnish a copy of the list to counsel for the parties or to any party acting *pro se* on a relevant trial roster, upon their request therefor. The list shall set out the name and county of residence of each prospective juror. The jurors and their families shall not be contacted, either directly or indirectly, in an effort to secure information concerning the background of any member

of the jury panel. When the jurors are seated in the jury box, a chart or list shall be furnished by the clerk to the parties or their counsel, showing the name and seating assignment of each juror**.**

(b) Examination of Jurors. The court shall conduct the examination of prospective jurors. Five (5) business days preceding the first day of the session at which a civil action is set for trial, counsel shall file a list of any *voir dire* questions counsel desires the court to ask the jury other than routine questions such as (1) the occupations and addresses of jurors and their spouses, (2) the identity and relation of jurors, the parties, counsel and witnesses and (3) the knowledge of the jurors concerning the case.

(c) Contact with Trial Jurors. Following the discharge of a jury from further consideration of a case, no attorney or party litigant shall individually or through an investigator or any person acting for such attorney or party litigant ask questions of or make comments to a member of that jury or the members of the family of such a juror that are calculated merely to harass or embarrass such a juror or member of such juror's family or to influence the actions of such a juror or a member of such juror's family in future jury service.

Rule 48.1

TAKING VERDICTS AND POLLING THE JURY

The court may take the verdict of the jury in open court in the absence of any party or counsel. Unless the contrary affirmatively appears of record, it will be presumed that the parties were present or by their voluntary absence waived their presence. The jury will not be polled unless a party requests a poll at the time the verdict is taken or unless a poll is ordered by the court.

Rule 49.1

Reserved for Future Purposes

Rule 50.1

Reserved for Future Purposes

Rule 51.1

REQUESTS FOR JURY INSTRUCTIONS

Five (5) business days preceding the first day of the session at which a civil action is set for trial, counsel shall file requests for jury instructions. Requests using *Federal Jury Practice and Instructions* (5th Ed.) by O'Malley, Grenig, and Lee, *5th Circuit Pattern Instructions*, and *North Carolina Pattern Instructions* shall include both the text of the proposed instruction as well as a citation reference to the proposed instruction. All other requests shall contain citations to supporting authorities.

Rule 52.1

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

In nonjury cases, counsel shall file proposed findings of fact and conclusions of law five (5) business days preceding the session at which a civil action is set for trial.

Rule 53.1

Reserved for Future Purposes

Rule 54.1

APPLICATION FOR COSTS

All applications for costs must be made within fourteen (14) days after entry of judgment. Objections to applications for costs must be filed within ten (10) days after service of the application for costs.

Rule 54.2

TAXATION OF JUROR COSTS

(a) Settlement before Trial. Whenever a civil action scheduled for jury trial is settled or otherwise disposed of in advance of the actual trial, then, except for good cause shown, juror costs for one (1) day shall be assessed equally against the parties and their counsel or otherwise assessed or relieved as directed by the court. Juror costs include attendance fees, per diem, mileage, and parking. No juror costs will be assessed if notice of settlement or other disposition of the case is given to the court one full business day prior to the scheduled trial date. In asbestos-related litigation, notice must be given to the court five (5) full business days prior to the scheduled trial date.

(b) Settlement before Verdict. Except upon a showing of good cause, the court shall assess the juror costs equally against the parties and their counsel whenever a civil action proceeding as a jury trial is settled at trial in advance of the verdict. The judge may, in his or her discretion, direct that the juror costs be relieved or that they be assessed other than equally among the parties and their counsel.

Rule 55.1

Reserved for Future Purposes

Rule 56.1

MEMORANDUM OPPOSING SUMMARY JUDGMENT

A memorandum opposing summary judgment shall comply with Local Rule 7.2, and include a short and concise statement of the material facts as to which it is contended that there exists a genuine issue to be tried.

Rule 57.1

Reserved for Future Purposes

Rule 58.1

Reserved for Future Purposes

Rule 59.1

Reserved for Future Purposes

Rule 60.1

Reserved for Future Purposes

Rule 61.1

Reserved for Future Purposes

Rule 62.1

Reserved for Future Purposes

Rule 63.1

Reserved for Future Purposes

Rule 64.1

SEIZURE OF PERSON OR PROPERTY

All acts and duties pertaining to the seizure of person or property as provided by the law of the State of North Carolina authorized to be done by a judge or the clerk of the state court may be done in like cases by a judge of this court or the clerk of this court, respectively.

Rule 65.1

SURETIES

(a) Approval of Security. The clerk or deputy clerk is authorized to approve all recognizances, stipulations, bonds, guaranties, or undertakings, in the penal sum prescribed by statute or order of the court, whether the security be property, or personal or corporate surety.

(b) Security. Except as otherwise provided by law, every recognizance, stipulation, bond, guaranty, or undertaking shall be with security that consists of either (1) cash or negotiable government bonds, or (2) one or more sureties, as provided by law or the applicable Federal Rule of Civil Procedure. A judge may enter pertinent orders restricting any bonding company or surety company from being accepted as surety upon any bond in any case or matter in this district.

(c) Use of Real Property as Security. Whenever a surety seeks to justify assets by demonstrating ownership of real property, a judge or magistrate judge shall determine by satisfactory evidence that the property is of sufficient unencumbered value to protect the interests of the adverse party.

(d) Prohibited Sureties. Members of the bar, administrative officers and employees of this court, and the marshal and deputies and assistants thereto shall not act as surety in any matter, criminal or civil, pending in this court.

Rule 66.1

Reserved for Future Purposes

Rule 67.1

DEPOSIT OF REGISTRY FUNDS IN INTEREST BEARING ACCOUNTS

A party seeking to have interest accrue on funds deposited into the court registry shall file a motion requesting deposit of the funds into an interest-bearing account. Upon appropriate order of the court directing the clerk to place registry funds into interest-bearing accounts, counsel shall confer with the clerk, within five (5) days after receipt of the order, concerning the manner and place of investment. If counsel and the clerk do not agree, the clerk shall seek further direction from the court. No officer or employee of this court shall incur any liability for failure to invest or for improper investment unless counsel have complied with their obligations under this local rule.

Rule 68.1

Reserved for Future Purposes

Rule 69.1

Reserved for Future Purposes

Rule 70.1

Reserved for Future Purposes

Rule 71.1

Reserved for Future Purposes

Rule 72.1

MAGISTRATE JUDGES: STANDARDS OF PERFORMANCE

In performing duties for the court, a magistrate judge shall conform to all applicable provisions of federal statutes and rules, to the local rules and procedures of this court, and to the requirements specified in any order of reference from a judge.

Rule 72.2

MAGISTRATE JUDGES: ASSIGNMENTS OF MATTERS

(a) Civil Cases. Upon filing, all civil cases shall be assigned by the clerk to a magistrate judge for the conduct of such discovery and pre-trial conferences as are necessary and for the hearing and determination of all pre-trial procedural and discovery motions, in accordance with Local Civil Rule 72.4(b). Where designated by a judge, the magistrate judge may conduct additional pre-trial conferences and hear motions and perform the duties set forth in Local Civil Rules 72.4(c), 72.4(d) and 72.4(e). Where the parties consent to trial and disposition of a case by a certified magistrate judge under Local Civil Rule 73.1, such case shall, with the approval of the judge to whom it was assigned at the time of filing, be reassigned to a certified magistrate judge for the conduct of all further proceedings and the entry of judgment.

(b) General. Nothing in these local rules shall preclude a judge from reserving any proceeding for conduct by a judge, rather than a magistrate judge. The judge, moreover, may by order modify the method of assigning proceedings to a magistrate judge as changing conditions may warrant.

Rule 72.3

AUTHORITY OF MAGISTRATE JUDGES

(a) Duties Under 28 U.S.C. § 636(a). A magistrate judge is authorized to perform the duties prescribed by 28 U.S.C. § 636(a), and may:

(1) exercise all the powers and duties conferred or imposed upon United States commissioners by law and the Federal Rules of Criminal Procedure;

(2) administer oaths and affirmations, impose conditions of release under 18 U.S.C. § 3146, and take acknowledgments, affidavits, and depositions; and

(3) conduct extradition proceedings, in accordance with 18 U.S.C. § 3184.

(b) Determination of Non-Dispositive Pre-Trial Matters -- 28 U.S.C. § 636(b)(1)(A). A magistrate judge may hear and determine any procedural or discovery motion or other pre-trial matter in a civil or criminal case, other than the motions which are specified in Local Civil Rule 72.3(c)(1).

(c) Recommendations Regarding Case-Dispositive Motions -- 28 U.S.C. § 636(b)(1)(B).

(1) A magistrate judge may submit to a judge a report containing proposed findings of fact and recommendations for disposition by the judge of the following pre-trial motions in civil and criminal cases:

a. Motions for injunctive relief, including temporary restraining orders and preliminary and permanent injunctions;

b. Motions for judgment on pleadings;
c. Motions for summary judgment;
d. Motions to dismiss or permit the maintenance of a class action;
e. Motions to dismiss for failure to state a claim upon which relief may be granted;
f. Motions to involuntarily dismiss an action;
g. Motions for review of default judgments;
h. Motions to dismiss or quash an indictment or information made by a defendant; and
i. Motions to suppress evidence in a criminal case.

(2) A magistrate judge may determine any preliminary matters and conduct any necessary evidentiary hearing or other proceeding arising in the exercise of the authority conferred by this Local Civil Rule 72.3.

(d) Prisoner Cases Under 28 U.S.C. § 2254 and § 2255. A magistrate judge may perform any or all of the duties imposed upon a judge by the rules governing proceedings in the United States district courts under 28 U.S.C. § 2254 and § 2255. In so doing, a magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and shall submit to a judge a report containing proposed findings of fact and recommendations for disposition of the petition by the judge. Any order disposing of the petition shall only be made by a judge.

(e) Prisoner Cases Under 42 U.S.C. § 1983. A magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and shall submit to a judge a report containing proposed findings of fact and recommendations for the disposition of petitions filed by prisoners challenging the conditions of their confinement.

(f) Special Master References. A magistrate judge may be designated by a judge to serve as special master in appropriate civil cases in accordance with 28 U.S.C. § 636(b)(2) and FED. R. CIV. P. 53. Upon the consent of the parties, a magistrate judge may be designated by a judge to serve as special master in any civil case, notwithstanding the limitations of FED. R. CIV. P. 53(b).

(g) Conduct of Trial and Disposition of Civil Cases Upon Consent of the Parties -- 28 U.S.C. § 636(c). Subject to the provisions of Local Civil Rule 73.1, a magistrate judge may conduct any or all proceedings in any civil case which is filed in this court, including the conduct of a jury or non-jury trial, and may order the entry of a final judgment, in accordance with 28 U.S.C. § 636(c). In the course of conducting such proceedings, a magistrate judge may hear and determine any and all pre-trial and post-trial motions, including case-dispositive motions.

(h) Other Duties. A magistrate judge is also authorized to:

(1) exercise general supervision of civil and criminal calendars, conduct calendar and status calls, and determine motions to expedite or postpone the trial of cases for the judges;

(2) conduct discovery conferences, pre-trial conferences, settlement conferences, omnibus hearings,and related pre-trial proceedings in civil and criminal cases;

(3) Conduct arraignments in criminal cases not triable by the magistrate judge and take not guilty pleas in such cases;

(4) receive grand jury returns in accordance with FED. R. CRIM. P. 6(f);

(5) accept waivers of indictment, pursuant to FED. R. CRIM. P. 7(b);

(6) conduct voir dire and select petit juries for the court;

(7) accept petit jury verdicts in civil cases in the absence of a judge;

(8) conduct necessary proceedings leading to the potential revocation of probation;

(9) issue subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum, or other orders necessary to obtain the presence of parties, witnesses or evidence needed for court proceedings;

(10) order the exoneration or forfeiture of bonds;

(11) conduct proceedings for the collection of civil penalties of not more than $200.00 assessed under the Federal Boat Safety Act of 1971, in accordance with 46 U.S.C. § 1484(d);

(12) conduct examinations of judgment debtors in accordance with FED. R. CRIM. P. 69;

(13) conduct proceedings for initial commitment of narcotics addicts under Title III of the Narcotic Addict Rehabilitation Act;

(14) perform the functions specified in 18 U.S.C. § 4107, 4108 and 4109, regarding proceedings for verification of consent by offenders to transfer to or from the United States and the appointment of counsel therein; and

(15) perform the duties specified by the Federal Debt Collection Procedures Act of 1990, 28 U.S.C. § 3001 et. seq.;

(16) perform any additional duty consistent with the Constitution and laws of the United States.

Rule 72.4

REVIEW AND APPEAL

(a) Appeal of Non-Dispositive Matters -- 28 U.S.C. § 636(b)(1)(A). Any party may appeal from a magistrate judge's order determining a motion or matter under Local Civil Rule 72.4(b) within ten (10) days after service of the magistrate judge's order, unless a different time is prescribed by the magistrate judge or a judge. Such party shall file with the clerk, and serve on the magistrate judge and all parties, a written statement of appeal which shall specifically designate the order, or part thereof, appealed from and the basis for any objection thereto. A judge shall consider the appeal and shall set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law. The judge may also reconsider *sua sponte* any matters determined by a magistrate judge under this local rule.

(b) Review of Case-Dispositive Motions and Prisoner Litigation -- 28 U.S.C. § 636(b)(1)(B). Any party may object to a magistrate judge's proposed findings, recommendations or report under Local Civil Rules 72.4(c), 72.4(d) or 72.4(e), within ten days after being served with a copy thereof. Such party shall file with the clerk, and serve on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for such objections. Any party may respond to another party's objections within ten (10) days after being served with a copy thereof. A judge shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge, however, needs to conduct a new hearing only in his or her discretion or where required by law, and may consider the record developed before the magistrate judge, making his or her own determination on the basis of that record. The judge may also receive further evidence, recall witnesses or recommit the matter to the magistrate judge with instructions.

(c) Special Master Reports -- 28 U.S.C. § 636(b)(2). Any party may seek review of, or action on, a special master report filed by a magistrate judge in accordance with the provisions of FED. R. CIV. P. 53(e).

(d) Appeal from Judgments in Civil Cases Disposed of on Consent of the Parties -- 28 U.S.C. § 636(c).

(1) **Appeal to the Court of Appeals.** Upon the entry of judgment in any civil case disposed of by a magistrate judge on consent of the parties under authority of 28 U.S.C. § 636(c) and Local Civil Rule 62.08, an aggrieved party shall appeal directly to the United States Court of Appeals for this circuit in the same manner as an appeal from any other judgment of this court.

(2) **Appeal to a District Judge.**

a. Notice of Appeal. In accordance with 28 U.S.C. § 636(c)(4), the parties may consent to appeal any judgment in a civil case disposed of by a magistrate judge to a district judge, rather than directly to the Court of Appeals. In such case the appeal shall be taken by filing a notice of appeal with and paying a $5.00 filing fee to the clerk within thirty (30) days after entry of the magistrate judge's judgment but if the United States or an officer or agency thereof is a party, the notice of appeal may be filed by any party within sixty (60) days of entry of the judgment. For good cause shown, the magistrate judge or a judge may extend the time for filing the notice of appeal for an additional twenty (20) days. A request for such extension, however, shall be made before the original time period for such appeal has expired. In the event a motion for a new trial is timely filed, the time for appeal from the judgment of the magistrate judge shall be extended to thirty (30) days from the date of the ruling on the motion for a new trial, unless a different period is provided by the Federal Rules of Civil or Appellate Procedure.

b. Service of the Notice of Appeal. The clerk shall serve notice of the filing of a notice of appeal by mailing a copy thereof to counsel of record for all parties other than the appellant, or if a party is not represented by counsel to the party at his or her last known address.

c. Record on Appeal. The record on appeal to a judge shall consist of the original papers and exhibits filed with the court and the transcript of the proceedings before the magistrate judge, if any. Every effort shall be made by the parties, counsel, and the court to minimize the production and costs of transcriptions of the record, and otherwise to render the appeal expeditious and inexpensive, as mandated by 28 U.S.C. § 636(c)(4).

d. Memoranda. The appellant shall within thirty (30) days of the filing of the notice of appeal file a typewritten memorandum, together with two (2) additional copies, stating the specific facts, points of law, and authorities on which the appeal is based. The appellees shall file an answering memorandum within thirty (30) days of the filing of the appellant's memorandum. The court may extend these time limits upon a showing of good cause made by the party requesting the extension. Such good cause may include reasonable delay in the preparation of any necessary transcript. If an appellant fails to file his or her memorandum within the time provided by this local rule, or any extension thereof, the court may dismiss the appeal.

e. Disposition of the Appeal by a Judge. The judge shall consider the appeal on the record, in the same manner as if the case had been appealed from a judgment of the district court to the court of appeals and may affirm, reverse, or modify the magistrate judge's judgment, or remand with instructions for further proceedings. The judge shall accept the magistrate judge's findings of fact unless they are clearly erroneous, and shall give due regard to the opportunity of the magistrate judge to judge the credibility of the witnesses.

(e) Appeals from other Orders of a Magistrate Judge. Appeals from any other decisions and orders of a magistrate judge not provided for in this Local Civil Rule 72.4 should be taken as provided by governing statute, rule, or decisional law.

Rule 73.1

CONSENT OF PARTIES TO CIVIL TRIAL JURISDICTION OF MAGISTRATE JUDGES

(a) Unless the judge to whom a civil action is assigned directs otherwise, the clerk shall routinely assign to a magistrate judge cases in which all parties consent to the exercise of civil trial jurisdiction pursuant to 28 U.S.C. § 636(c).

(b) Appeals from a judgment of a magistrate judge pursuant to 28 U.S.C. § 636(c)(4) shall lie to the judge to whom the case was originally assigned.

Rule 74.1

Reserved for Future Purposes

Rule 75.1

Reserved for Future Purposes

Rule 76.1

Reserved for Future Purposes

Rule 77.1

COURT IN CONTINUOUS SESSION

This court shall be in continuous session in all divisions of the District on all business days throughout the year. All matters not reached at the regular sessions of court are deemed to be in an open status and subject to being called for disposition before the next regular session of court upon reasonable notice to the interested parties.

Rule 77.2

ORDERS AND JUDGMENTS

The clerk or deputy clerk is authorized to enter the orders and judgments listed below without further direction

of the court. However, such action may be suspended, altered or rescinded by the court for cause shown.

(a) Consent orders for substitution of attorneys.

(b) Orders enlarging time periods in civil actions authorized to be entered by the court by FED. R. CIV. P. 6(b).

(c) Orders extending for a reasonable amount of time the period within which an act must be performed under the local rules of this court.

(d) Consent order dismissing an action, except in bankruptcy proceedings and in cases to which FED. R. CIV. P. 23(c) and FED. R. CIV. P. 66 apply.

(e) Orders canceling liability on bonds.

(f) Orders changing the time of opening and adjourning court in the absence of the judge.

(g) Judgments by default as provided for in FED. R. CIV. P. 55(a) and 55(b)(1).

(h) Orders authorizing service of process by a person other than a United States Marshal pursuant to FED. R. CIV. P. 4(c).

(i) Certification of law students and supervising attorneys pursuant to Local Civil Rule 83.2.

(j) Any other motion, rule or order which may be granted of course or without notice.

(k) Pursuant to the provisions of 28 U.S.C. § 956, the clerk or a deputy clerk, when there is need to serve a complaint and attachment upon a vessel, or any other process incident to admiralty and maritime claims, either *in rem* or *in personam*, are empowered to grant and enter an order authorizing any sheriff or any deputy sheriff, or other suitable person, to serve all such process.

Rule 78.1

Reserved for Future Purposes

Rule 79.1

EXHIBITS

The clerk shall be the custodian of all exhibits admitted into evidence. Upon ten (10) days notice by mail to counsel for all parties, the clerk may, within thirty (30) days after the entry of final judgment, destroy or otherwise dispose of the exhibits.

Rule 79.2

SEALED DOCUMENTS

(a) Filing Sealed Documents. Absent statutory authority, no cases or documents may be sealed without an order from the court. A party desiring to file material under seal must first file a motion seeking leave to file the information under seal, or have a court-approved protective order in place.

(b) Proposed Sealed Documents. All proposed, sealed material which accompanies a Motion to Seal shall be received by the clerk and temporarily sealed, pending a ruling on the motion to seal. The filing of a Motion to Seal documents will toll the time for filing the material. If the Motion to Seal is allowed, the sealed material shall be filed on the same date as the order allowing the filing under seal. If the motion to file the material under seal is denied, the movant will be given an option of retrieving the material or having it filed the same date as the order denying the filing under seal.

(c) Docketing Sealed Documents. When material is filed under seal, the docket will indicate generically the type of document filed under seal, but it will not contain a description that would disclose its identity.

(d) Return of Sealed Materials. After the action concludes and all appeals have been completed, counsel is charged with the responsibility of retrieving and maintaining all sealed documents. Upon ten (10) days notice by mail to counsel for all parties, and within thirty (30) days after final disposition, the court may order the documents to be unsealed and they will thereafter be available for public inspection.

(e) Form. All under seal or potentially under seal documents shall be delivered to the Clerk's Office enclosed in a red envelope, marked with the case caption, case number, and a descriptive title of the document, unless such information is to be, or has been, among the information ordered sealed. Additionally, the following information will

be prominently displayed:

SEALED PURSUANT TO THE PROTECTIVE ORDER ENTERED ON __/__/200_

OR

PROPOSED SEALED MATERIAL: SUBMITTED PURSUANT TO MOTION TO SEAL FILED ON __/__/200_

Rule 80.1

Reserved for Future Purposes

Rule 81.1

CIVIL RIGHTS ACTIONS BY PRISONERS (42 U.S.C. SECTION 1983)

All complaints on behalf of state prisoners seeking relief under 42 U.S.C. § 1983 and federal prisoners challenging conditions of confinement shall be filed with the clerk in compliance with the instructions of the clerk and on the appropriate form available without charge. An original and one copy of the complaint for the court and one copy of the complaint for each defendant named in the action shall be filed.

Rule 81.2

***HABEAS CORPUS* ACTIONS (28 U.S.C. SECTION 2255 MOTIONS)**

All petitions on behalf of prisoners seeking relief under 28 U.S.C. § 2255 shall be filed with the clerk in compliance with the instructions of the clerk and on the appropriate form available without charge. Such proceedings shall be governed by the rules promulgated by the United States Supreme Court.

Rule 81.3

NATURALIZATION

Petitions for naturalization will be considered and acted upon, and appropriate ceremonies conducted in connection therewith, on Friday of the first week of any regular session of court at which naturalization hearings are set, beginning at 11:00 A.M., unless otherwise ordered by the court. The court may at other times, in its discretion, for good cause shown, and upon reasonable prior notice by the applicant to the Immigration and Naturalization Service, consider and act upon petitions for naturalization by members of the armed services, seamen on merchant vessels registered under the laws of the United States, and members of the immediate families and dependents of such personnel, and in other exceptional cases.

Rule 82.1

Reserved for Future Purposes

Rule 83.1

ATTORNEYS

(a) Roll of Attorneys. The bar of this court consists of those heretofore admitted and those hereafter admitted as prescribed by this Local Civil Rule 83.1.

(b) Eligibility. A member in good standing of the bar of the Supreme Court of North Carolina is eligible for admission to the bar of this court.

(c) Procedure for Admission. Before being presented to the court for taking the required oath, an applicant for admission shall certify in a written application that such applicant:

(1) Is a member in good standing of the bar of the Supreme Court of North Carolina; and

(2) Has studied the Federal Rules of Civil and Criminal Procedure, the Federal Rules of Evidence, and the Local Rules of this court.

In addition to these certifications, the written application shall contain the certification of two attorneys who are members in good standing of the bar of this court that the applicant is of good moral character and professional reputation and meets the requirements for admission. An applicant may be admitted to practice in this court by a district judge, bankruptcy judge, or magistrate judge of this court or of the United States District Court for the Middle District or Western District of North Carolina upon oral motion by a member of the bar of this court. If the motion for admission is granted, the applicant shall take the following oath or affirmation:

> I do solemnly swear that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic, and that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will demean myself as an attorney of this court, uprightly and according to law. So help me God.

Following the administration of the oath, the application shall be signed by the judge or magistrate judge and the applicant shall file the application, accompanied by a fee of $180.00, with the clerk. The clerk shall then issue the applicant a certificate of admission to the bar of this court. Upon the filing of a properly certified and executed application accompanied by the admission fee of $180.00, the clerk may accept for filing papers signed by the applicant. However, no applicant shall make an appearance on behalf of a client, either before a magistrate or district judge, by telephone conference or in person, until the applicant has taken the oath.

(3) Current law clerks to judges of this Court as well as to magistrate judges and bankruptcy judges within this District shall be admitted to the bar of this Court without payment of an admission fee.

(d) Representation by Local Counsel Who Must Sign All Documents. Litigants in civil and criminal actions, except governmental agencies and parties appearing *pro se*, must be represented by at least one member of the bar of this court who shall sign all documents filed in this court, including his or her state bar number and fax number in the signature block on all pleadings. If an attorney appears solely to bring the litigant in compliance with this local rule, he shall in each instance designate himself "LR 83.1 Counsel." In signing documents, counsel certifies that he is an authorized representative for communication with the court about the litigation, and the document conforms to the practice and procedure of this court. However, counsel does not make the certification required by Rule 11 of the Federal Rules of Civil Procedure. Nevertheless, the requirements of Rule 11 must be complied with by out-of-state counsel. Signatures in the following form shall be sufficient to comply with this local rule. Local Civil Rule 83.1 Local Counsel must include state bar number and fax number in the signature block on all pleadings:

_____

Jane M. Jones
Attorney for Defendant
Jones, Jones and Jones
P.O. Box 500
New York, NY 10050
Jane.jones@email.address.com
(212) 555-1212
State Bar No.

_____

John B. Counselor
Attorney for Defendant
Abbott, Ball and Counselor
P.O. Box 50
Raleigh, NC 27602
John.B.Counselor@email.address.com

(919) 878-8787
Fax (919) 878-8000
State Bar No.
LR 83.1 Counsel

(e) Appearances by Attorneys Not Admitted in the District - Special Appearance.

(1) Attorneys who are members in good standing of the bar of a United States District Court and the bar of the highest court of any state or the District of Columbia may practice in this court for a particular case in association with a member of the bar of this court. By filing a Notice of Appearance, completing an Electronic Filing Attorney Registration Form, and complying with Section J.(1) of the Policy Manual, an attorney agrees that:

(a) the special appearance attorney will be responsible for ensuring the presence of an attorney who is familiar with the case and has authority to control the litigation at all conferences, hearings, trials and other proceedings;

(b) the attorney submits to the disciplinary jurisdiction of the court for any misconduct in connection with the litigation in which the attorney is specially appearing; and

(c) for purposes of Fed. R. Civ. P.11, the Federal Rules of Civil and Criminal Procedure and the Local Rules of this court, the special appearance attorney's electronic signature shall carry the same force and effect as an original signature.

(2) An attorney who is not a member of the bar of this court will not receive electronic notification until the attorney becomes a registered CM/ECF filer with this court and files a Notice of Appearance.

(3) A member of the bar of this court who accepts employment in association with a special appearance attorney is responsible to this court for the conduct of the litigation of the proceeding, must be a CM/ECF registrant and shall review for submission by the special appearance attorney all pleadings and papers electronically filed in compliance with Section J.(1) of the Policy Manual. The responsibility of the member of the bar who accepts employment in association with a special appearance attorney and designates him or herself as Local Civil Rule 83.1 local counsel shall be governed by Local Civil Rule 83.1(d).

(4) Any document filed by a special appearance attorney that does not comport with associated LR 83.1 counsel's standards may be objected to. Any such objection must be filed within five (5) days of the issuance of the NEF for the document.

(f) Pleadings, Service, and Attendance by Local Counsel in Cases Where Out-of-State Attorneys Appear by Special Appearance.

Pleadings and other documents filed in a case where an attorney appears who is not admitted to the bar of this court shall contain the individual name, firm name, address and phone number of both the attorney making a special appearance under this local rule and the associated local counsel. As part of making an appearance in every case an attorney also shall file contemporaneously a client disclosure statement in accordance with Fed. R. Civ. P. 7.1 and Local Civil Rule 7.3. The service of all pleadings and notices as required shall be sufficient if served only upon the associated local counsel. Local counsel shall attend all court proceedings unless excused by the court.

(g) Withdrawal of Appearance. No attorney or law firm whose appearance has been entered shall withdraw his or her appearance or have it stricken from the record except with leave of the court. However, if an attorney within the same firm replaces counsel for a party, the new attorney may file a notice of substitution of counsel and the court will substitute the attorneys without order of the court.

(h) Courtroom Decorum. Counsel shall conduct themselves with dignity and propriety. Counsel shall rise when addressing the court, and all statements to the court shall be made from a counsel table or from behind the lectern facing the court. Counsel shall not approach the bench unless requested to do so by the court or unless permission is granted upon the request of counsel.

(i) Questioning of Witnesses. Only one attorney for each party may question a particular witness unless the court allows otherwise. Counsel shall remain seated while questioning witnesses.

(j) Professional Standards. The ethical standard governing the practice of law in this court are the Revised Rules of Professional Conduct, now in force and as hereafter modified by the Supreme Court of North Carolina, except as may be otherwise provided by specific rule of this court. Counsel are directed to advise the clerk within ten days of disciplinary action taken against them resulting in suspension or disbarment. The disciplinary procedures of this court shall be on file with the clerk and furnished to counsel upon request.

(k) Admission of Attorneys Previously Admitted to the United States District Courts for the Middle or Western Districts of North Carolina. Attorneys already admitted to the bar of either the United States District Court for the Middle District of North Carolina or the United States District Court for the Western District of North Carolina may be admitted to the bar of this court upon tendering the application and fees required by Local Civil Rule 83.1(c), together with a copy of the order admitting the attorney to practice in one of the other districts, without the necessity of taking the oath that is otherwise required and without obtaining the character certification by two members of the bar of this court.

Rule 83.2

STUDENT PRACTICE RULE

(a) Compliance With Rule. Students may participate as counsel in civil and criminal cases in this court subject to their compliance with all of the requirements of this Local Civil Rule 83.2.

(b) Eligibility. An eligible student must:

(1) be duly enrolled in a law school;

(2) have completed at least three semesters of legal studies;

(3) have knowledge of the Federal Rules of Civil and Criminal Procedure, the Federal Rules of Evidence, the Code of Professional Responsibility, and the Local Rules of this court;

(4) be supervised by a supervising attorney as defined in Local Civil Rule 83.2(c);

(5) be certified by the Dean of the Law School where the student is enrolled, or the Dean's designee, as being of good character, sufficient legal ability, and adequately trained to fulfill the responsibilities of a legal intern to both the client and the court;

(6) be certified by the court to practice pursuant to this Local Civil Rule 83.2; and

(7) decline personal compensation for his or her legal services from a client or any other source.

(c) Supervising Attorney. A supervisor must:

(1) either (1) have faculty or adjunct faculty status at a law school at which a portion of the supervisor's duties includes supervision of students in a clinical program; or (2) be a member of the bar of this court for at least two years, who in the determination of the court, is competent to carry out the role of supervising attorney;

(2) be admitted to practice in this court;

(3) be certified by the court as a student supervisor;

(4) be present with the student at all times in court, and at other proceedings in which testimony is taken;

(5) co-sign all pleadings or other documents filed with the court;

(6) assume full personal and professional responsibility for a student's guidance and any work undertaken and for the quality of the student's work, and to be available for consultation with represented clients;

(7) assist and counsel the student in activities mentioned in Local Civil Rule 83.2(e), and review such activities with the student, all to the extent required for proper practical training of the student and the protection of the client; and

(8) supplement oral or written work of the student as necessary to insure proper representation of the client.

(d) Certification of Student and Supervisor.

(1) Student. The court's certification of a student to practice under this Local Civil Rule 83.2 shall be filed with the clerk and shall remain in effect for eighteen (18) months or until the student graduates from law school, whichever is earlier. Certification to appear generally or in a particular case may be withdrawn by the court at any time, in the discretion of the court, and without any showing of cause.

(2) Supervising Attorney. Certification of the supervising attorney shall be filed with the clerk, and shall remain in effect indefinitely unless withdrawn by the court, in its discretion, and without any showing of cause.

(e) Activities. A certified student may under the personal supervision of his or her supervisor:

(1) represent any client including federal, state or local governmental bodies, if the client on whose behalf the certified student is appearing has consented in writing to that appearance and the supervising lawyer has given written approval of that appearance;

(2) represent a client in any criminal, civil or administrative matter; however, the court retains the authority to limit a student's participation in any individual case;

(3) in connection with matters in this court, engage in other activities on behalf of the client in all ways that a licensed attorney may, under the general supervision of the supervising lawyer; however, a student shall make no binding commitments on behalf of a client absent prior client and supervisor approval, and in any matters, including depositions, in which testimony is taken the student must be accompanied by the supervising lawyer. Documents or papers which are filed shall be read, approved, and co-signed by the supervising lawyer. The court retains the authority to establish exceptions to such activities; and

(4) prior to oral participation by a certified student in a hearing or trial, the supervising attorney shall provide the court with a written statement of the scope of participation anticipated on the part of the certified student.

Rule 83.3

CHANGE OF ADDRESS

All attorneys and pro se parties must notify the court in writing within ten (10) days of any change of address. Failure to notify the court in a timely manner of an address change may result in dismissal of the action or the imposition of such other relief that the court deems just and proper.

Rule 83.4

RELEASE OF INFORMATION TO NEWS MEDIA

(a) Court Personnel. All court personnel, including but not limited to, the marshal and deputy marshals and office personnel, the clerk and deputy clerks and office personnel, probation officers and office personnel, bailiffs, court reporters, and the judges' and magistrate judges' office personnel, are prohibited from disclosing to any person, where it can reasonably be expected to be disseminated by means of public communication, without authorization of the court, information relating to any pending matter, civil or criminal, that has not been filed as a part of the public records of the court. This proscription applies to the divulgence of any information concerning arguments and hearings held in chambers or otherwise outside the presence of the jury or the public.

(b) Copies of Public Records. The members of the news media and others may obtain copies of all public records from the clerk upon payment of copying fees as prescribed by the Judicial Conference of the United States.

Rule 83.5

CORRESPONDENCE

Correspondence addressed to the court shall indicate that copies have been transmitted to all other parties and failure to transmit the same to all other parties may result in sanctions by the court. Such correspondence shall not become a part of the record in the case.

Rule 83.6

PHOTOGRAPHING AND REPRODUCING COURT PROCEEDINGS

The taking of photographs, broadcasting or recording of proceedings in any form in the courtroom, court offices or in the corridors immediately adjacent thereto, during judicial proceedings or during any recess of the court is prohibited except as set forth below. The taking of photographs, broadcasting or recording of ceremonial proceedings,

such as naturalization proceedings, the administration of oaths of office to officers of the court, presentation of portraits and other ceremonial occasions may be allowed with the permission of the presiding judge and under the supervision and control of the court.

Rule 83.7

PURPOSE OF DISCIPLINARY RULES

The court, in furtherance of its inherent power and responsibility to supervise attorneys who practice or appear before it, adopts these rules of disciplinary enforcement.

Rule 83.7a

ATTORNEYS CONVICTED OF CRIMES

(i) Filing of Judgment of Conviction. Upon the filing with the clerk of a certified copy of a judgment of conviction stating that an attorney admitted to practice before the court has been convicted in any Court in the United States, or the District of Columbia, or of any state, territory, commonwealth or possession of the United States of a serious crime as hereinafter defined, this court may enter an order immediately suspending that attorney, whether the conviction resulted from a plea of guilty, or nolo contendere or from a verdict after trial or otherwise, and regardless of the pendency of any appeal, until final deposition of the disciplinary proceeding to be commenced in accord with the provision of Rule 83.7e. A copy of such order shall immediately be served upon the attorney. Upon good cause shown, the court may set aside such order when it appears in the interest of justice to do so.
(ii) Definition of Serious Crime. The term serious crime shall include any felony and other lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt r conspiracy or solicitation of another to commit a serious crime.
(iii) Certified Copy of Judgment Conclusive Evidence. A certified copy of a judgment f conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in a disciplinary proceeding instituted against that attorney based upon such conviction.
(iv) Suspension and Referral. Upon the filing with the clerk of a certified copy of a judgment of conviction of an attorney for a serious crime, the court may in addition to suspending that attorney in accordance with the provisions of Rule 83.7a(i), also refer the matter to counsel for the institution of a disciplinary proceeding before the court in which the sole issue to be determined shall be the extent of the final discipline to be imposed as a result of the conduct resulting in the conviction, provided that a disciplinary proceeding so instituted will not be brought to final hearing until all direct appeals from the conviction are concluded.
(v) Conviction of Non-Serious Crime. Upon the filing with the clerk of a certified copy of a judgment of conviction of an attorney for a crime not constituting a serious crime, the court may refer the matter to counsel for whatever action counsel may deem warranted, including the institution of a disciplinary proceeding before the court; provided, however, that the court may in its discretion make no referral with respect to convictions for minor offenses.
(vi) Reinstatement. An attorney suspended under the provisions of this Rule 83.7a will be reinstated immediately upon the filing with the clerk of a certificate demonstrating that the underlying conviction has been reversed but the reinstatement will not terminate any disciplinary proceeding then pending against the attorney, the disposition of which shall be determined by the court on the basis of all available evidence pertaining to both guilt and the extent of the discipline to be imposed.

Rule 83.7b

DISCIPLINE IMPOSED BY OTHER COURTS

(i) Duty to Inform This Court. Any attorney admitted to practice before this court shall, upon being subjected to public discipline by any other court or administrative body of the United States or the District of Columbia, or by a court or administrative body (or state agency clothed with disciplinary authority), or any state, territory, commonwealth or possession of the United States, promptly inform the clerk of this court of such action.

(ii) Notice to Attorney. Upon the filing with the clerk of a certified or exemplified copy of a judgment or order demonstrating that an attorney admitted to practice before this court has been disciplined by another court or administrative body (or state agency clothed with disciplinary authority), this court shall forthwith issue a notice directed to the attorney containing:

(a) a copy of the judgment or order from the other court or administrative body (or state agency clothed with disciplinary authority); and,

(b) an order to show cause directing that the attorney inform this court within 30 days after service of that order upon the attorney, personally or by mail, of any claim by the attorney predicated upon the grounds set forth in Rule 83.7b(iv) that the imposition of the identical discipline by the other court would be unwarranted and the reasons therefor.

(iii) Deferral of Action. In the event the discipline imposed in the other jurisdiction has been stayed there, any reciprocal discipline imposed in this court shall be deferred until such stay expires.

(vi) Imposition of Discipline. Upon the expiration of 30 days from service of the notice issued pursuant to Rule 83.7b(ii) this court shall impose the identical discipline unless the respondent-attorney demonstrates, or this court finds, that upon the face of the record upon which the discipline in another jurisdiction is predicated it clearly appears:

(a) that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

(b) that there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this court could not, consistent with its duty, accept as final the conclusion on that subject; or

(c) that the imposition of the same discipline by this court would result in grave injustice; or

(d) that the misconduct established is deemed by this court to warrant substantially different discipline.

Where this court determines that any said element exists, it shall enter such order as it deems appropriate.

(v) Effect of Final Adjudication. In all other respects, a final adjudication in another court or administrative body (or state agency clothed with disciplinary authority) that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in this court.

(vi) Appointment of Counsel. This court may at any time appoint counsel to prosecute the disciplinary proceedings.

Rule 83.7c

DISBARMENT ON CONSENT OR RESIGNATION IN ANOTHER COURT OR BEFORE A STATE BAR

Any attorney practicing before this court who shall be disbarred on consent or resign from the bar of any court or state while an investigation into allegations of misconduct is pending, shall promptly inform the clerk, and upon the filing with this court of a certified copy of the judgment or order accepting such disbarment on consent or resignation, shall cease to be permitted to practice before this court.

Rule 83.7d

STANDARDS FOR PROFESSIONAL CONDUCT

(i) Form of Discipline. For misconduct defined in these Rules, and for good cause shown, and after notice and opportunity to be heard, any attorney admitted to practice before this court, may be disbarred, suspended from practice before this court, reprimanded or subjected to such other disciplinary action as the circumstances may warrant.

(ii) Grounds for Discipline. Acts or omissions by an attorney admitted to practice before this court, individually or in concert with any other person or persons, which violate the Rules of Professional Conduct adopted by this court shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship. The Rules of Professional Conduct adopted by this court are the North Carolina State Bar Rules of Professional Conduct adopted by the Supreme Court of North Carolina, except as may be otherwise provided by specific rule of this court.

Rule 83.7e

DISCIPLINARY PROCEEDING

(i) Referral by the Court. When misconduct or allegations of misconduct in any case or proceeding in this court on the part of an attorney admitted to practice before this court which, if substantiated, would warrant discipline of such attorney shall come to the attention of a judge of this court, whether by complaint or otherwise, and the applicable procedure is not otherwise mandated by these Rules, the judge shall refer the matter to counsel for investigation and if warranted the prosecution of a formal disciplinary proceeding or the formulation of such other recommendation as may be appropriate.

(ii) Recommendation for Disposition. Should counsel conclude after investigation and review that a formal disciplinary proceeding should not be initiated against the respondent attorney because sufficient evidence is not present, or because there is pending another proceeding against the respondent-attorney, the disposition of which in the judgment of the counsel should be awaited before further action by this court is considered or for any other valid reason, counsel shall file with the court a recommendation for disposition of the matter, whether by dismissal, admonition, deferral, or otherwise, setting forth the reasons therefor.

(iii) Initiation of Disciplinary Proceedings. To initiate formal disciplinary proceedings, counsel shall obtain an order of this court upon a showing of probable cause requiring the respondent-attorney to show cause within 30 days after service of that order upon that attorney, personally or by mail, why the attorney should not be disciplined.

(iv) Procedure for Hearing. Upon the respondent-attorneys answer to the order to show cause, if any issue of fact is raised or the respondent-attorney wishes to be heard in mitigation this court shall set the matter for prompt hearing before one or more judges of this court, provided however that if the disciplinary proceeding is predicated upon the complaint of a judge of this court the hearing shall be conducted before another judge of this court appointed by the Chief Judge, or if the Chief Judge is the complainant, by the next senior judge of this court.

Rule 83.7f

DISBARMENT ON CONSENT WHILE UNDER DISCIPLINARY INVESTIGATION OR PROSECUTION

(i) Consent to Disbarment. Any attorney practicing before this court who is the subject of an investigation into, or a pending proceeding involving, allegations of misconduct may consent to disbarment by delivering to this court an affidavit stating that the attorney desires to consent to disbarment and that:

(a) the attorney's consent is freely given,

(b) the attorney is aware of the pending investigation or proceeding,

(c) the attorney acknowledges the material facts of misconduct, and

(d) the attorney consents because the attorney knows that he or she could not defend successfully against charges of misconduct.

(ii) Order of Disbarment. Upon receipt of the required affidavit, this court shall enter an order disbarring the attorney.

(iii) Record. The order disbarring the attorney on consent shall be a matter of public record. However, the affidavit required under the provisions of this rule shall not be publicly disclosed or made available for use in any other proceeding except upon order of this court.

Rule 83.7g

REINSTATEMENT

(i) Automatic Reinstatement; Reinstatement by Order. An attorney suspended for 3 months or less shall be automatically reinstated at the end of the period of suspension upon filing with the court an affidavit of compliance with the provisions of the suspension order. An attorney suspended for more than three months or disbarred may not resume practice until reinstated by order of this court.

(ii) Time for Petition. An attorney who has been disbarred after hearing or by consent may not petition for reinstatement until the expiration of at least 3 years from the effective date of disbarment.

(iii) Procedure. Petitions for reinstatement by a disbarred or suspended attorney under this rule shall be filed with the court. Upon receipt of the petition, the chief judge shall assign the matter for a prompt hearing before a judge (or judges) of the court and may, in the chief judge's discretion, refer the petition to counsel for investigation. The judge assigned to the matter shall schedule a hearing at which petitioner shall have the burden of demonstrating by clear and convincing evidence that the attorney has the moral qualifications, competency, and learning of the law required for admission to practice law before this court, and that the attorney's resumption of the practice of law will not be detrimental to the integrity and standing of the Bar or the administration of justice or subversive of the public interest. In all proceedings upon a petition for reinstatement, cross examination of the witnesses of the attorney and the submission of evidence, if any, in opposition to the petition shall be conducted by counsel if the matter has been referred to counsel by the court.
(iv) Costs. Petitions for reinstatement under this rule shall be accompanied by an advanced cost deposit in an amount to be set from time to time by the court to cover anticipated costs of the reinstatement proceeding.
(v) Order of Reinstatement. If the petitioner is found to be unfit to resume the practice of law, the petition shall be dismissed. If the petitioner is found to be fit to resume the practice of law, the judgment shall reinstate the petitioner, provided that the judgment may make reinstatement conditional upon the payment of all or part of the costs of the proceedings, and upon the making of partial or complete restitution to parties harmed by the petitioner whose conduct led to the suspension or disbarment.
(vi) Successive Petitions. No petition for reinstatement under this rule shall be filed within 1 year following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person.

Rule 83.7h

SERVICE OF PAPERS AND OTHER NOTICES

Service of an order to show cause instituting a formal disciplinary proceeding shall be made by personal service or by registered or certified mail addressed to the respondent-attorney at the address shown in the most recent registration filed pursuant to N.C.G.S. § 84-34, or, in the case of an attorney admitted to this court pursuant to Local Rule 83.1(e), at the address shown in papers filed with the court. Service of any other papers or notices required by these rules shall be deemed to have been made if such paper or notice is addressed to the respondent attorney at the address determined as aforesaid; or to counsel or the attorney for the respondent attorney at the address indicated in the most recent pleading or other document filed by the respondent.

Rule 83.7i

APPOINTMENT OF COUNSEL

Whenever counsel is to be appointed by these rules to investigate allegations of misconduct or to prosecute disciplinary proceedings or in conjunction with a reinstatement petition, the court may appoint as counsel the disciplinary agency of the Supreme Court of North Carolina or any other disciplinary agency having jurisdiction. Alternatively, the court may appoint as counsel one or more members of the Bar, provided, however, that the respondent-attorney may move to disqualify an attorney for good cause shown. Counsel, once appointed, may not resign unless permission to do so is given by the court. Nothing in this rule limits the court's authority to refer any matter to the appropriate state bar for investigation, prosecution of disciplinary proceedings, or reinstatement.

Rule 83.7j

DUTIES OF THE CLERK

(i) To Secure Certificate of Conviction. Upon being informed that an attorney admitted to practice before this court has been convicted of any serious crime, the clerk shall determine whether the clerk of the court (or the state agency clothed with disciplinary authority) in which such conviction occurred has forwarded a certificate of such conviction to the court. If a certificate has not been so forwarded, the clerk shall promptly obtain a certification and cause it to be filed in this court.
(ii) To Secure Disciplinary Judgment or Order. Upon being informed that an attorney admitted to practice before

this court has been subjected to discipline by another court, or by an administrative body (or by a state agency clothed with disciplinary authority), the clerk shall determine whether a certified or exemplified copy of t he disciplinary judgment or order has been filed with this court, and, if not, the clerk shall promptly obtain a certified or exemplified copy of the disciplinary judgment or order and cause it to be filed in this court.

(iii) Transmittal to Other Jurisdictions. Whenever it appears that any person convicted of any serious crime, disbarred, suspended, censured or disbarred on consent by this court is admitted to practice law in any other jurisdiction or before any other court, the clerk shall, within ten days of that conviction, disbarment, suspension, censure, or disbarment on consent, transmit to the disciplinary authority in such other jurisdiction, or for such other court, a certificate of the conviction or a certified exemplified copy of the judgment or order of disbarment, suspension, censure, or disbarment on consent, as well as the last known office and residence addresses of the respondent attorney.

(iv) National Discipline Data Bank. The clerk shall notify the National Discipline Data Bank operated by the American Bar Association of any order of this court imposing public discipline upon any attorney admitted to practice before this court.

Rule 83.7k

PUBLICITY

All parties in a disciplinary proceeding shall conduct themselves in accord with the provisions of Local Civil Rule 83.4 and Local Criminal Rule 61.1.

Rule 83.7l

JURISDICTION

Nothing contained in these rules shall be construed to deny to this court such powers as are necessary for the court to maintain control over proceedings conducted before it, such as proceedings for contempt under Title 18 of the United States Code or under Rule 42 of the Federal Rules of Criminal Procedure or other sanctions under the Federal Rules of Civil Procedure or these Local Rules.

Rule 83.8

BANKRUPTCY APPEALS

In appeals from any judgment, order, or decree of a bankruptcy judge to the district court, the appellant shall serve and file a brief within 15 days after the clerk gives notice to parties of the date on which the appeal was docketed.

Rule 100.1

COURT LIBRARIES

The clerk shall maintain the court libraries in the district. Use of the facilities is limited to judicial officers, court staff and members of the bar of this court. Books shall not be removed from the library without the consent of the person responsible for the maintenance of the particular library, and shall not be removed from the courthouse under any circumstances. A violation of this local rule shall be punishable as for contempt of court.

Rule 100.2

JURISDICTIONAL AGREEMENTS WITH OTHER COURTS

The clerk shall maintain all jurisdictional agreements entered into by the Chief District Judge of this court and

the Chief District Judge of any other United States District Court and a copy of such agreements shall be furnished to counsel upon request.

Rule 100.3

CIVIL CONTEMPT

(a) Rights of Contemnor. In all cases of civil contempt, the contemnor shall have due notice of the contempt charges, opportunity to reply to the charges and notice of the date and place of hearing in open court from which the public shall not be excluded.

(b) Summary Contempt Proceedings. In contempt proceedings where the court may act summarily, the contemnor shall have the right to defend against the charges and to offer evidence in the form of affidavits. The movant shall have the right to offer similar evidence.

(c) Plenary Contempt Proceedings. In contempt proceedings where the court may not act summarily, the presentation of evidence is governed by Rule 1101 of the Federal Rules of Evidence. In no case of civil contempt, however, shall the parties be entitled to trial by jury, but rather the district judge before whom the matter is tried shall find the facts and enter a judgment or order in accordance with the provisions of the Federal Rules of Civil Procedure applicable to non-jury cases.

Rule 100.4

STANDING ORDERS

(a) Issuance. Standing orders shall be issued by the chief judge.

(b) Subject Matter. Standing orders are used to address matters of court business, including court policies and administrative matters, not adequately addressed by orders in individual cases, but not appropriate for inclusion in the local rules because of improbability of recurrence, level of importance, degree of interest to the bar or public, or other reasons.

(c) Form. Each standing order shall bear a heading identifying it as such and specifying the subject matter to which it relates. Standing orders shall be given such additional identifiers, including docket numbers, as the clerk determines are appropriate to facilitate orderly storage of and access to such orders.

(d) Posting and Retention. Standing orders shall be posted for review by the public and court personnel and, when appropriate, archived in such manner as the chief judge directs in consultation with the clerk.

(e) Annual Review. The local rules committee shall review the court's standing orders each year to determine whether any should be converted into local rules, amended, or vacated. The committee shall report the results of its review, including any recommendations, to the chief judge.

ALTERNATIVE DISPUTE RESOLUTION

Rule 101

ALTERNATIVE DISPUTE RESOLUTION (ADR)

(a) Purpose of ADR Rules. These rules (Local ADR Rules 101-101.3) implement a system of settlement events which are designed to focus the parties' attention on settlement rather than on trial preparation and to provide a structured opportunity for settlement negotiations to take place. In the case of binding summary trial, these rules also provide, by agreement, an alternative means of obtaining a final determination on the merits. Nothing in these rules is intended to limit or prevent the parties from engaging in settlement procedures voluntarily at any time before or after those ordered by the court pursuant to these rules. The rules are not intended to force settlement upon any party. The rules shall be construed to secure the just, speedy, and inexpensive resolution of controversies while preserving the right of all parties to a conventional trial where the parties have not agreed that the outcome of the ADR procedure will be the final determination in the case. The rules are subject to and do not limit the plenary, discretionary authority of the presiding judge over all aspects of alternative dispute resolution procedures in cases before the judge, including whether to use any alternative dispute resolution procedure, the type of procedure used, and the sequence, timing, and other requirements governing any procedure used. The presiding judge may vary from the provisions of these rules in his or her discretion.

(b) Specific ADR Procedures. These rules provide expressly for mediated settlement conferences (Local ADR Rules 101.1-101.1f), court-hosted settlement conferences (Local ADR Rule 101.2), and summary trials, both jury and non-jury (Local ADR Rules 101.3-101.3b). Express provision for these procedures is not intended to exclude the use of other alternative dispute resolution procedures, as appropriate, that may be suggested by the parties or the court. In all cases, the rules provide the parties the opportunity to present to the court their respective positions, if they choose to do so, regarding the type of alternative dispute resolution procedures to be used and the sequence and timing of such procedures. Absent contrary order, in cases selected for mediation, the rules mandate mediation during the discovery period and, if settlement is not achieved, permit a court-hosted settlement conference after discovery and the ruling on any motions for summary judgment. Summary trial, whether jury or non-jury or binding or non-binding, may be used in lieu of or in addition to other alternative dispute resolution procedures, as appropriate. In determining the type of alternative dispute resolution procedure to be used, and the sequence and timing of such procedures, due consideration will be given to the preferences of the parties, the nature of the case, judicial efficiency, and other considerations relevant under the circumstances presented. The court shall determine in its discretion the type of alternative dispute resolution procedure to be used, if any, and the sequence, timing, and other requirements governing any procedures used, giving such consideration as it deems appropriate to the preferences of the parties, the nature of the case, judicial efficiency, and other considerations it deems relevant under the circumstances presented.

Rule 101.1

MEDIATED SETTLEMENT CONFERENCES

Local ADR Rules 101.1-101.1f govern reference of selected civil actions for mediated settlement conferences. Their purpose is to provide for an informal process conducted by a mediator with the objective of helping the parties reach a mutually acceptable settlement of their dispute.

Rule 101.1a

SELECTION OF CASES FOR MEDIATED SETTLEMENT CONFERENCES

(a) Mediated Settlement Conferences During Discovery. In selected civil cases (see section (b) for a description of cases automatically selected for mediation) there shall be conducted a mediated settlement conference in accordance with Local ADR Rules 101.1a-f. The conference may be set for any time during the discovery period, as agreed by the parties. In appropriate cases, the parties may wish to schedule the mediation early in the discovery period,

after a first round of depositions or other discovery. In other cases, the parties may choose to set the conference near the end of the discovery period after all, or substantially all, discovery is complete.

(b) Automatic Selection by these Rules. Several categories of civil cases are automatically selected for mediated settlement conferences, without specific order by the court. These categories include, according to the nature of suit designations made in opening the case in CM/ECF or as listed within the court forms appearing at www.nced.uscourts.gov, (1) contract [categories 110-140 and 160-196, specifically excluding 150-153], (2) tort [all categories, 310-385], (3) civil rights [all categories, 440-446], (4) labor [all categories, 710-791], (5) property rights [all categories, 820-840], (6) antitrust [category 410], (7) banks and banking [category 430], (8) securities/commodities/exchange [category 850], (9) environmental matters [category 893], (10) consumer credit [category 480], and (11) cable/sat TV [category 490]. The parties to these actions shall discuss mediation plans at the Fed.R.Civ.P. 26(f) meeting of the parties and report such plans in their Rule 26(f) Report in preparation for the entry of an initial pretrial order. Cases wherein the United States is a party or any party appears pro se are not included within this automatic selection for mediation.

(c) Discretionary Selection by the Court. In its discretion, the court may order a mediated settlement conference in any action not automatically selected under section (b), above. After entry of such an order, the parties shall have 20 days to file a statement identifying an agreed-upon mediator.

(d) Stipulated Selection by the Parties. In any case where selection for a mediated settlement conference is not automatic under section (b) of this rule, the parties may file a stipulation for mediation. In such stipulation, the parties may state any agreements they have reached regarding the identity of the mediator, the timing of the conference, and any modification of the procedures described by these rules.

(e) Exemption from Mediation and Use of Other ADR Proceedings. Any party, or parties jointly, may file a motion for exemption from mediation. Such a motion will be granted or denied in the court's discretion. A general assertion that a case is not likely to settle or that settlement possibilities are remote may not in the court's discretion adequately justify exemption. If the moving party or parties seek another form of alternative dispute resolution in lieu of mediation, such as summary trial or court-hosted settlement conference, the motion for exemption shall include a request for such a proceeding.

Rule 101.1b

MEDIATORS

(a) Court Certification. (1) The clerk shall maintain and make available on the court's website a list of court-certified mediators who meet the requirements for certification under subsection (2). The list shall identify areas of subject matter expertise of each mediator according to the categories identified in Local ADR Rule 101.1a(b) and include the curriculum vitae submitted by the mediator to the court.

(2) Attorneys who agree to serve under these rules, have been certified as mediators by the North Carolina Dispute Resolution Commission, and who have at least 8 years of civil trial practice or membership on the faculty of an accredited law school may be appointed to the court's list of certified mediators. Further, attorneys who were on the court's list of certified mediators as of November 1, 2007 shall remain on the list. A person seeking appointment to the list shall submit to the clerk a curriculum vitae and such other information as is necessary to show his or her compliance with the requirements for appointment.

(3) Appointment to the list does not guarantee any mediator that he or she will be appointed to serve in any case before the court.

(4) A certified mediator shall notify the clerk within 30 days of any change in address or other contact information previously provided to the clerk and shall notify the clerk promptly if he or she no longer wishes to remain on the court's list of certified mediators.

(b) Compensation of Mediators. A mediator appointed under these rules shall be compensated and reimbursed as provided in this section, unless the parties and the mediator agree to different terms. The mediator shall be compensated by the parties at the hourly rate set by the clerk. The parties shall make payment directly to the mediator at the termination of the mediated settlement conference, whether or not the case is settled. The mediator shall be compensated for up to 2 hours of preparation time, the time expended in the conference, and a reasonable amount of time lost and costs incurred due to untimely action by a party or person required to attend that results in postponement of the conference. The only compensable expense of the mediator is travel mileage at the ordinary government rate. The

mediator's fee and travel expense shall be paid in one equal share by the plaintiff (or plaintiffs), one equal share by the defendant (or defendants), and one equal share by any third party (or parties), unless, as indicated, otherwise agreed by all parties or ordered by the court in the interest of fairness.

(c) Compensation of Mediators when a Party is Unable to Pay. If a party contends it is unable to pay its share of the mediator's fee, that party shall, before the conference, file a motion with the court to be relieved of the obligation to pay. The motion shall be accompanied by an affidavit of financial standing. The mediated settlement conference should proceed without payment by the moving party, and the court will rule on the motion upon completion of the case. The court will take into consideration the outcome of the case, whether by settlement or judgment, and may relieve the party of its obligation to pay the mediator if payment would cause a substantial financial hardship. If the party is relieved of its obligation, the mediator shall remain uncompensated as to that portion of his or her fee, a circumstance that reflects the mediator's duty of pro bono service.

Rule 101.1c

SELECTION OF THE MEDIATOR

(a) Selection by Agreement. The parties are encouraged to select their own mediator by agreement. If, within 20 days of the initial pretrial order, the parties file with the clerk a statement identifying an agreed-upon mediator, such statement shall be effective to select the mediator. The parties shall certify in the statement that the mediator has agreed to his or her selection and shall serve a copy of the statement on the mediator at the time it is filed. Notwithstanding the requirements for appointment to the court's list of certified mediators in Local ADR Rule 101.1b(a)(2), the parties may select an agreed-upon mediator who is not on the clerk's list of certified mediators and is not certified by the North Carolina Dispute Resolution Commission. An agreed-upon mediator who is not on the clerk's list of certified mediators must, prior to service, agree to be bound by all provisions of these rules, including submission to the jurisdiction of this court for disciplinary purposes, and, if not certified by the North Carolina Dispute Resolution Commission, to be bound by the North Carolina Standards of Professional Conduct for Mediators. Such a mediator shall be deemed to have given the required agreement by undertaking any action as mediator in the case to which he or she has been assigned.

(b) Selection by the Clerk. If no timely statement pursuant to section (a) of this rule is filed, the clerk shall appoint a mediator from the certified list. The appointment is within the discretion of the clerk, who may consider subject matter expertise in making the appointment. The clerk shall give notice of the appointment to the mediator and the parties.

(c) Disqualification. On motion made to the court not later than 20 days before a scheduled mediated settlement conference, a mediator may be disqualified by the court for bias or prejudice as provided in 28 U.S.C. §144. Further, a mediator shall disqualify himself or herself if the mediator could be required to do so under 28 U.S.C. §455 if he or she were a justice, judge, or magistrate judge or under the North Carolina Standards of Professional Conduct for Mediators.

(d) Copies of the Pleadings. On request of the mediator, the clerk shall furnish to the mediator a copy of the complaint, answer, and any third-party pleadings in the action.

Rule 101.1d

PROCEDURES FOR MEDIATED SETTLEMENT CONFERENCES

(a) Time Period for the Mediated Settlement Conference. The mediated settlement conference shall be held during the discovery period unless the court specifically orders otherwise.

(b) Scheduling the Mediated Settlement Conference. The mediated settlement conference shall ordinarily be held in the office of the mediator, but may be held at any other place agreed to by the parties and the mediator. Because of space limitations, the federal courthouses are not available for mediated settlement conferences. After conferring with the attorneys for the parties regarding scheduling matters, the mediator shall determine the place and time of the conference (within the period established by these rules), and give notice to the parties. The mediator may postpone the conference by agreement of all parties and persons required to attend and the mediator, but only to a date within the period for the conference established by these rules.

(c) Submission of Position Papers to Mediator. No later than 5 business days before the scheduled date of the mediated settlement conference, any party may submit a confidential position paper to the mediator. The position paper and any exhibits shall be subject to such limits on length, if any, as the mediator imposes. Position papers are confidential, shall be held so by the mediator, and need not be served on other parties. The purpose of these submissions is to help the mediator become familiar with the assertions of the parties, and the parties may agree to the submission of additional information if they believe the information will facilitate the mediated settlement conference.

(d) Duties of Parties, Representatives, and Attorneys. (1) The following persons shall be physically present at the entire mediated settlement conference:

(i) Individual parties; an officer, manager, or director of a corporate or entity party, such representative to have full authority to negotiate on behalf of the entity and to approve or, when permitted pursuant to subsection (2) hereof, to recommend a settlement;

(ii) At least one attorney of record for each represented party; and

(iii) A representative of the insurance carrier for any party against whom a claim is made. The representative must have full authority to settle the claim and must be a person other than the carrier's outside counsel.

(2) Any such party or person may have the attendance requirement excused or modified, including the allowance of that party's or person's participation without physical attendance:

(i) By agreement of all parties and persons required to attend and the mediator; or

(ii) By order of the court, upon motion of a party and notice to the all parties and persons required to attend and the mediator.

(3) Upon reaching a settlement agreement at a mediated settlement conference, the parties shall reduce the agreement to writing and prepare a stipulation of dismissal or consent judgment for presentation to the court within two weeks after completion of the conference unless a different deadline is agreed to by the parties or established by the court.

(e) Authority of the Mediator. The mediator is authorized by these rules to exercise control over the mediated settlement conference and to direct all proceedings therein. The mediator is specifically authorized to meet or consult privately with any party or their counsel before, during, or after the conference. The mediator may report in writing to the court, with copies to the parties, any conduct of any party that may be in violation of these rules for mediated settlement conferences.

(f) Duties of the Mediator. At the beginning of the mediated settlement conference, the mediator shall describe the following matters to the parties:

(1) The process of mediation,

(2) The differences between mediation and other forms of conflict resolution,

(3) The costs of the mediated settlement conference,

(4) The fact that the mediated settlement conference is not a trial, the mediator is not a judge, and the parties retain their right to trial if they do not reach settlement,

(5) The circumstances under which the mediator may meet alone with either of the parties or any other person,

(6) The conditions under which communications with the mediator will be held in confidence during the conference,

(7) The inadmissibility of negotiating statements and offers at trial,

(8) The fact that the court will not permit parties in other litigations to conduct discovery regarding the mediation in this case,

(9) The duties and responsibilities of the mediator and the parties, and

(10) The fact that any agreement reached will be reached by mutual consent of the parties.

The mediator may recess or suspend the conference at any time and set a schedule for reconvening it within the period for the conference established by these rules. It is the duty of the mediator to determine if an impasse has been reached or mediation should for any reason be terminated. The mediator shall then inform the parties that mediation is terminated.

(g) Agreement to Modify Mediation Procedures. By agreement filed with the court, the parties, with the consent of the mediator, may modify the mediation procedures described in these rules, except that the parties may not alter time limitations set by these rules or order of the court.

(h) Sanctions for Failure to Appear and Misconduct. If a person fails to attend a mediated settlement conference without good cause or engages in misconduct during or otherwise in connection with a mediated settlement conference, the court may impose on that person (and any associated party) any sanction authorized by Fed. R. Civ. P. 37(b) and any other lawful sanction, including, but not limited to, the imposing of the cost of attorney's fees, mediator's fees, and expenses of persons incurred in attending the conference.

(i) Immunity. A mediator appointed by the court pursuant to these rules shall have judicial immunity in the same manner and to the same extent as a judge of this court, except that the mediator may be disciplined (1) by the court, after being provided an opportunity to be heard, for violation of these rules or the North Carolina Standards of Professional Conduct for Mediators and (2) by the State Bar or any agency established to enforce standards of conduct for mediators.

(j) Inadmissibility of Negotiations. (1) Evidence of statements made and conduct occurring in a mediated settlement conference, whether attributable to a party, the mediator, or a neutral observer present at the conference (e.g., mediator candidate, interpreter, person studying dispute resolution), shall not be subject to discovery and shall be inadmissible in any proceeding in the action or other civil actions on the same claim, except:

(i) In proceedings for sanctions under these rules;

(ii) In proceedings to enforce or rescind a settlement of the action; or

(iii) In disciplinary proceedings before the court, the North Carolina State Bar, or any agency established to enforce standards of conduct for mediators.

(2) No evidence otherwise discoverable shall be inadmissible merely because it is presented or discussed in a mediated settlement conference.

(3) No mediator or neutral observer present at a mediated settlement conference shall be compelled to testify or produce evidence concerning statements made and conduct occurring in anticipation of, during, or as a follow-up to a mediated settlement conference in any civil proceeding for any purpose, including proceedings to enforce or rescind a settlement of the action, except to attest to the signing of any agreements, and except proceedings for sanctions under these rules, and disciplinary proceedings before this court, the State Bar, or an agency established to enforce standards of conduct for mediators.

Rule 101.1e

COMPLETION OF THE MEDIATED SETTLEMENT CONFERENCE

When the mediated settlement conference is completed, the mediator shall within 7 days after completion submit to the clerk a report of the status of the case, on a form supplied by the clerk. If the case is resolved, it is the duty of the parties to file a stipulation of dismissal or consent judgment. If the case is not resolved, it proceeds without further order of the court in accordance with the local rules of the court.

Rule 101.1f

EVALUATION OF THE MEDIATION PROGRAM

The mediation program established by these rules will be periodically reviewed by the court. For purposes of evaluation of the program, the mediator, the attorneys, and the litigants may be requested to complete confidential evaluation reports at the completion of the mediation. These reports shall be kept confidential by the clerk and shall be maintained in a file separate and apart from the case file. The clerk shall compile information from the evaluation reports to assist the court in determining the effectiveness of the mediation program.

Rule 101.2

COURT-HOSTED SETTLEMENT CONFERENCES

(a) Selection of Cases for Court-Hosted Settlement Conference. The court, upon its own initiative or at the request of any party, may order a settlement conference, conducted by a district judge, magistrate judge, bankruptcy judge, or other federal judicial officer, at a time and place to be fixed by the court. Upon request by all parties to an action, the court shall order a court-hosted settlement conference.

(b) Time Period for the Court-Hosted Settlement Conference. The court-hosted settlement conference shall

be held after the discovery period and the ruling resolving any motions for summary judgment unless the court specifically orders otherwise.

(c) Presiding Judicial Official. A judicial officer other than the judge assigned to the case will ordinarily preside at a court-hosted settlement conference.

(d) Attendance at the Court-Hosted Settlement Conference. (1) The following persons shall be physically present at the entire court-hosted settlement conference:

(i) Individual parties; an officer, manager, or director of a corporate or entity party, such representative to have full authority to negotiate on behalf of the entity and to approve or, when permitted pursuant to subsection (2) hereof, to recommend a settlement;

(ii) At least one attorney of record for each represented party; and

(iii) A representative of the insurance carrier for any party against whom a claim is made. The representative must have full authority to settle the claim and must be a person other than the carrier's outside counsel.

(2) Any such party or person may have the attendance requirement excused or modified, including the allowance of that party's or person's participation without physical attendance, by order of the judicial officer presiding over the conference, upon motion of a party and notice to all the parties and persons required to attend.

(e) Conduct of the Court-Hosted Settlement Conference. The parties, representatives, and attorneys are encouraged to be completely candid with the judicial officer presiding over the conference so that he or she may properly guide settlement discussions. The judicial officer presiding over the conference may make such other and additional requirements of the parties and conduct the proceedings as he or she deems proper to expedite settlement of the case. The judicial officer presiding over the conference will not discuss the substance of the conference with anyone, including the judge to whom the case is assigned, and may excuse the parties or the attorneys from the conference any time. During the settlement conference, and, as appropriate, before and after the conference, the judicial officer presiding over it also may confer ex parte with any parties, representatives or attorneys, meet jointly or individually with the parties and/or representatives without the presence of counsel, and elect to have the parties and/or representatives meet alone without the presence of the judicial officer or counsel, all with the specific understanding that any conversation relative to settlement will not constitute an admission and will not be used in any form in the litigation or in the event of trial.

Rule 101.3

SUMMARY TRIALS

Summary trial is an ADR procedure consisting of a streamlined trial of a case. The outcome of the summary trial may be non-binding or, if the parties agree, binding. These rules provide for a summary trial before a jury (Local ADR Rule 101.3a) or the bench (Local ADR Rule 101.3b). The procedure used at the summary trial may be adjusted to meet the needs of the particular case. Therefore, while these rules set forth detailed procedures for summary jury trials, the judge presiding over the trial may modify or disregard any of these procedures, and, in consultation with counsel, fashion alternatives deemed better suited to the case. Similarly, the procedures for summary jury trial may serve as a guide to the procedures for a summary bench trial. Summary trial may be used in lieu of other alternative dispute resolution procedures or in addition to them, such as an alternative to impassing a mediation.

Rule 101.3a

SUMMARY JURY TRIALS

(a) Eligible Cases. The assigned judge may, after consultation with counsel, refer for summary jury trial any civil case in which jury trial has been properly demanded. Either or both parties may move the court to order summary jury trial; however, the court will not require a party to participate against its will.

(b) Selection of Cases. Cases selected for non-binding summary jury trial should be those in which counsel feel that a non-binding verdict by the jury could be helpful in a subsequent settlement negotiation. Since an investment of time by counsel and by the court is necessary for the procedure, summary jury trial should ordinarily be used only in those cases that would take more than 7 trial days to try.

(c) Procedural Considerations. Summary jury trial is a flexible ADR process. The procedures to be

followed should be determined by the assigned judge in advance of the scheduled summary jury trial date, in light of the circumstances of the case and after consultation with counsel. The following matters should be considered by the assigned judge and counsel in structuring a summary jury trial.

(1) *Presiding Judge*. Either a district judge or a magistrate judge may preside over a summary jury trial, provided that a magistrate judge may preside over a binding summary jury trial only with the consent of all the parties. During a non-binding summary jury trial, the presiding judge will ordinarily participate in on-going settlement negotiations and may have ex-parte conferences with each side. For this reason, normally a judge other than the trial judge will be selected to preside over a non-binding summary jury trial.

(2) *Submission of Written Materials*. Counsel must submit proposed jury voir dire questions, jury instructions, and briefs on any novel issues of law within three (3) working days before the date set for the summary jury trial. In addition, counsel may also choose to submit other items, such as a statement of the case, stipulations, and exhibit lists.

(3) *Attendance.* Non-binding summary jury trials are effective in promoting settlement because, among other reasons, they give parties their "day in court" (meeting a need to voice their position in a public forum), and because they allow parties to see the merits of their opponent's position. It is therefore critical that the parties and all other persons or entities involved in the settlement decision attend a non-binding summary jury trial. This includes all individual parties and representatives of corporations and other parties and insurers vested with full settlement authority. Since absence of any decision maker makes the process less likely to proceed, this attendance requirement can be waived only by order of the court.

(4) *Size of Jury Panel.* The jury shall consist of 6 to 12 members.

(5) *Voir dire*. Each counsel may exercise a maximum of two peremptory challenges. There will be no alternate jurors. Counsel will be assisted in the exercise of challenges by a brief voir dire examination to be conducted by the court.

(6) *Transcript or Recording.* Upon consent of the parties, counsel may arrange for the proceedings to be recorded by a court reporter at his or her own expense. However, no transcript of the proceedings will be admitted in evidence at any subsequent trial unless the evidence would be otherwise admissible under the Federal Rules of Evidence.

(7) *Conference Between Counsel.* Prior to trial, counsel are to confer with regard to the use of physical exhibits, including documents and reports, and reach such agreement as is possible. Prior to the day of the summary jury trial, the court will hear all matters in dispute and make appropriate rulings.

(8) *Timing.* The summary jury trial should take no more than one-and-one-half (1½) days from jury selection to jury deliberation. In consultation with counsel before the summary jury trial, the court shall establish a scheme of time allotment for presentations by counsel.

(9) *Case Presentations.* The attorney presentations shall be organized in the manner of a typical trial, except that no witness testimony will be allowed, absent the court's permission. First, the plaintiff shall present an opening statement, followed immediately by defendant's opening statement. Next, plaintiff and defendant shall present their cases-in-chief by informing the jury in more detail than the opening statement who the witnesses are and what their testimony will be. Finally, the plaintiff and then defendant will make closing arguments to the jury. Plaintiff may present a final rebuttal if his or her presentation time limit has not expired. The parties are free to divide their allotted time among the three trial segments as they see fit.

(10) *Manner of Presentation.* All evidence shall be presented through the attorneys for the parties. The attorneys may summarize and comment on the evidence and may summarize or quote directly from depositions, interrogatories, requests for admissions, documentary evidence, and sworn statements of potential witnesses; however, no witness' testimony may be referred to unless the reference is based upon one of the products of the various discovery procedures, or upon a written, sworn statement of the witness, or upon sworn affidavits of counsel that the witness would be called at trial and will not sign an affidavit, and that counsel has been told the substance of the witness' proposed testimony by the witness. Demonstrative evidence, such as videotapes, charts, diagrams, and models may be used unless the court finds, on objection, that this evidence is neither admissible nor accurately reflects evidence which is admissible.

(11) *Objections.* Formal objections are discouraged. Nevertheless, in the event counsel makes a representation not supported by admissible evidence, an objection will be entertained. If such an objection is sustained, the jury will be instructed appropriately.

(12) *Jury Instructions*. Jury instructions will be given in an abbreviated form, adapted to reflect the nature of the proceeding. The jury will be instructed to return a unanimous verdict, if possible. Barring unanimity, the jury may be instructed to submit a statement of each juror's findings.

(13) *Jury Deliberations.* Jury deliberations should be limited in time.

(14) *Settlement Negotiations.* While the summary jury in non-binding summary trials is deliberating, the presiding judge

should direct the parties to meet and explore settlement possibilities. The judge may participate in this process.

(15) *Continuances.* The proceedings may not be continued or delayed other than for short recesses at the discretion of the court.

(16) *Finality of Determination.* Although ordinarily non-binding in nature, counsel may stipulate among themselves that a consensus verdict by the summary jury will be a final determination on the merits of the case and judgment may be entered thereon by the court. In addition, counsel may stipulate to any other use of the verdict that will aid in resolution of the case. For example, the parties should consider a bracketed settlement with specific minimum and maximum settlement amounts and being bound by the summary jury's verdict within the brackets.

(17) *Trial.* If a non-binding summary jury trial does not result in settlement of the case, it should proceed to trial on the scheduled date.

(18) *Limitation on Admission of Evidence.* The assigned judge shall not admit at a subsequent trial any evidence that there has been a non-binding summary jury trial, the nature or amount of any verdict, or any other matter concerning the conduct of the summary jury trial or negotiations related to it, unless:

(a) The evidence would otherwise be admissible under the Federal Rules of Evidence; or

(b) The parties have otherwise stipulated.

Rule 101.3b

SUMMARY NON-JURY TRIALS

The assigned judge may, after consultation with counsel, refer any civil case for summary non-jury trial. Either or both parties may move the court to order summary non-jury trial; however, the court will not require a party to participate against its will. The decision resulting from a non-jury summary trial may be non-binding or, upon consent of the parties, a final determination on the merits upon which judgment shall be entered. The procedure for a summary non-jury trial shall be directed by the court on a case-by-case basis after consultation with counsel. The procedures for summary jury trials may be used, as appropriate, as a guide for procedures in summary bench trials.

ADMIRALTY AND MARITIME CLAIMS

Rule 200.00

TITLE AND SCOPE

These rules are entitled Admiralty Rules and may be cited as "Local Admiralty Rules" or "LAR". They apply to the maritime and admiralty proceedings as defined in Supplemental Rule A of the Federal Rules of Civil Procedure The Local Rules of the United States District Court for the Eastern District of North Carolina apply to all civil cases, including admiralty and maritime proceedings, but if a local rule is inconsistent with an admiralty rule, the admiralty rule shall control. As used in these LAR, "court" means a U. S. District Judge or a U. S. District Magistrate Judge.

Rule 201.00

PROCESS

(a) Order Authorizing the Clerk to Issue Process of Arrest, Attachment or Garnishment.

Except in actions by the United States for forfeitures, before the clerk will issue a summons and process of arrest, attachment or garnishment to any party, including intervenors, under Supplemental Rules B and C, the pleadings, the affidavit required by Rule B, and accompanying supporting papers must be reviewed by the court. The clerk may refer a motion under this provision to any magistrate judge or judge of the court who is reasonably available, regardless of the judge to whom the action is assigned. The motion may be heard and the decision thereon communicated to the clerk telephonically. If the court finds the conditions set forth in Rules B or C appear to exist, as appropriate, the court shall authorize the clerk to issue process. Supplemental process or alias process may thereafter be issued by the clerk upon application without further order of the court.

(1) Order

Upon approving the application for arrest, attachment or garnishment, the court will issue an order to the clerk to issue such process. The proposed form of order authorizing the issuance of such process and the proposed process itself shall be submitted to the court or the clerk before the court's review.

(2) Exigent Circumstances

If the plaintiff or his or her attorney certifies by affidavit submitted to the clerk that exigent circumstances make review by the court impracticable, the clerk shall issue a summons and warrant of arrest or process of attachment and garnishment. In actions by the United States for forfeitures for federal statutory violations, the clerk, upon filing of the complaint, shall forthwith issue a summons and warrant for arrest of the vessel or other property without requiring a certification of exigent circumstances.

(b) Return of Process -- Supplemental Rules C and D.

Unless otherwise ordered by the court, all process from this court within the scope of Supplemental Rules C and D, Fed. R. Civ. P., shall be returnable by claim on or before ten days after execution of the process and by answer within twenty days following filing of claim or, in the event the property is not released within 10 days after execution of process, by filing a claim and serving answer within 20 days of publication as required by Rule C(4).

(c) Return of Process -- Supplemental Rule B and F and other Rule 9(h) actions.

Unless otherwise ordered by the court, all process from this court within the contemplation of Supplemental Rules B and F, Fed. R. Civ. P., shall be in conformity therewith. Unless otherwise ordered by the court, all process in Rule 9(h), Fed. R. Civ. P. actions (other than process contemplated by Rules B, C, D and F) shall be returnable on or before 20 days following service.

(d) Registry of Vessel Information.

Whenever a vessel is to be served, the party seeking service shall inform the Marshal of the registry of the vessel to be served, provided, however, failure to so inform the Marshal shall not be cause for the Marshal to refuse to serve the said vessel or in any way invalidate service of process.

Rule 202.00

ISSUANCE OF PROCESS

(a) Intangible Property.

(1) Issuance and Effect of Summons. The summons issued pursuant to Supplemental Rule C(3) shall direct the person having control of the funds or other intangible property to show cause no later than 10 days after service why the funds or other property should not be delivered to the court to abide the judgment. The court, for good cause shown, may shorten or lengthen the time. Service of the summons has the effect of an arrest of the property and brings it within the control of the court.

(2) Payment to Marshal. The person who is served may deliver or pay over to the Marshal the property or funds proceeded against, or a part thereof, sufficient to satisfy the claim. If such payment is made, the person served is excused from any duty to show cause.

(3) Manner of Showing Cause. The claimant of the property may show cause why the property should not be delivered to the court by serving and filing a claim as provided in Supplemental Rule C(6) within the time allowed to show cause, and by serving and filing an answer to the complaint within 20 days thereafter.

(4) Effect of Failure to Show Cause. If a claim is not filed within the time stated in the summons, or an answer is not filed within the time allowed under this Rule, the person who was served shall deliver or pay to the Marshal the property or funds proceeded against, or a part thereof, sufficient to satisfy plaintiff's claim.

(b) Seizure of Property Already in Custody of an Officer of the United States.

In addition to the requirements of Supplemental Rule (C)(3), where property in the custody of an officer or employee of the United States is to be arrested or attached, the Marshal shall deliver a copy of the complaint and warrant for arrest, or summons and process of attachment, to such officer or employee or, if the officer or employee is not found within the district, then to the custodian of the property within the district. The Marshal shall notify such officer, employee or custodian not to relinquish such property from custody until ordered to do so by the court.

(c) Use of State Procedures. When the plaintiff invokes a state procedure to attach or garnish property under Federal Rule 4(n), the process of attachment and garnishment shall so state.

(d) "Not Within the District" Defined. A defendant is considered to be "not found within the district" if, in an action in personam, service upon the defendant cannot be effected in person or upon an authorized officer or agent within the State of North Carolina or if the only effective service is through the Secretary of State, the North Carolina Long Arm Statute, or through any method of substituted service.

Rule 203.00

POST ARREST PROCEDURE

(a) Whenever property is arrested, attached or garnished, any person claiming an interest in the property shall be entitled to a prompt hearing before the court on notice to the party bringing the arrest, attachment or garnishment and to all other parties who have appeared in the action. The hearing shall be noticed and scheduled as is a hearing on a request for temporary restraining order. At the hearing, the party that obtained the arrest, attachment or garnishment shall show cause why the arrest, attachment or garnishment order should not be vacated forthwith or other appropriate relief granted.

(b) If the arrest, attachment or garnishment was obtained under a certification of exigent circumstances, the party obtaining the arrest, attachment or garnishment shall have the burden to show that exigent circumstances existed.

(c) This Rule shall have no application to suits for seamen's wages when process is issued upon a certification of sufficient cause filed pursuant to Title 46, U.S.C. § 603 and 604 or to action by the United States for forfeitures.

Rule 204.00

PUBLICATION

(a) Publication required by Supplemental Rule (C)(4), FED. R. CIV. P. shall be made once, without further court order, in any one of the following newspapers:

Northern Division: Virginian Pilot, Norfolk, Virginia, The News and Observer, Raleigh, North Carolina

Southern Division: Wilmington Morning Star, Wilmington, North Carolina

All Other Divisions: The News and Observer, Raleigh, North Carolina

(b) If the property arrested is not released within ten days after execution of process, publication hereunder shall, unless otherwise ordered, be caused by the plaintiff or intervenor to be made within seventeen days after execution of process.

(c) Such notice shall be substantially as follows, except and unless otherwise provided in actions for the enforcement of forfeitures for violation of any federal statute:

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
_____Division
In Admiralty
No._____

Caption of Case

NOTICE: The United States Marshal, Eastern District of North Carolina, has on (date) arrested the (Vessel and appurtenances) (Property) in the above causes, civil and maritime for (nature of claim, i.e. contract, salvage, damage, collision, foreclosure of preferred mortgage, etc.) amounting to ($ (and nature of unliquidated items)). Any person who has not been previously served with process and who is entitled to possession or who claims an interest in the (Vessel or Property), must file a claim and serve an answer on or before (date 20 days after publication), otherwise, default may be entered and condemnation ordered.

DATED at (city of publication), (state), (month, day and year of publication).

(Name)
(Address)
(Telephone Number)
(N.C. Bar Number)
(Attorney(s)) for
(Plaintiff)(Intervenor)

(d) Plaintiff or intervenor will cause to be furnished to the Marshal, at the time process issues in Supplemental Rules B, C and D., FED. R. CIV. P. actions, a prepared statement of attachment and garnishment or arrest with blanks for completion of date thereof and for signature below the name and title of such Marshal, together with self-addressed envelope to plaintiff or plaintiff's attorney with sufficient postage affixed. The Marshal will promptly cause same to be completed and mailed after execution of process.

(e) Plaintiff shall effect publication required by Supplemental Rule F(4), FED. R. CIV. P. without further court order, in any one of the following newspapers:

Northern Division: Virginian Pilot, Norfolk, Virginia, The News and Observer, Raleigh, North Carolina

Southern Division: Wilmington Morning Star, Wilmington, North Carolina

All Other Divisions: The News and Observer, Raleigh, North Carolina

(f) Whenever publication is required, the person or party causing the publication shall file with the clerk, no later than 30 days after the date of publication, sworn proof of publication by a person duly authorized by the newspaper to execute affidavits of legal notices, together with a copy of the publication, or reproduction thereof.

Rule 205.00

STIPULATIONS FOR COSTS AND SECURITY

(a) Seamen. Seamen suing as provided in 28 U.S.C. § 1916 shall not be required to file a stipulation for costs in the first instance. The court may however, order a stipulation to be given at any time.

In all actions *in rem* brought by seamen in their own names and for their own benefit for wages, salvage, or the enforcement of laws for their health or safety without prepaying costs or fees or furnishing security therefor, pursuant to 28 U.S.C. § 1916, the Marshal may at any time after service of process, attachment, or seizure of a vessel, petition any judge or magistrate judge of this court to require the posting of security for any or all reasonable expenses which have been or may be incurred while the vessel is in the custody of the Marshal. Upon filing such petition for the posting of security, a hearing date shall promptly be set by the court and the Marshal shall give notice of the time and place of such hearing by serving a copy of the notice of hearing together with a copy of the petition upon counsel of record for the parties or upon the parties, and by posting a copy of the same on the vessel.

(b) Increase or Decrease in Security. At any time, any party having an interest in the subject matter of the action may move the court, on due notice and for cause, for greater, better or lesser security; and any such order may be enforced by attachment or otherwise. The court may enter such order on its own motion, with or without notice.

(c) Deposit Required Before Seizure. Any party, including any intervenor, who seeks arrest, attachment or garnishment of property in an action governed by Supplemental Rule E and Federal Rule 4(e) shall deposit with the Marshal the sum estimated by the Marshal to be sufficient to pay the fees and expenses of arresting, attaching, or garnishing and keeping the property for at least 10 days, or such lesser amount as the Marshal deems sufficient. The Marshal is not required to execute process of arrest, attachment or garnishment until such deposit is made.

(d) Additional Deposits Required After Seizure. Any party who has caused the Marshal to arrest, attach or garnish property shall advance additional sums from time to time as required by the Marshal to pay the fees and expenses of the Marshal until the property is released or disposed of as provided in Supplemental Rule E.

(e) Sanction for Failure to Make Deposit. Any party who fails to make a deposit when required by the Marshal may be subject to sanctions including the release of the vessel.

(f) In complying with the provisions of Supplemental Rule F(1) concerning security for costs, if plaintiff elects to post cash, that sum shall be $250.00; if the plaintiff elects to post a bond, the amount of the bond shall be $250.00; if the plaintiff elects to post a bond, the amount of the bond shall be $250.00 plus interest at the rate of 6% per annum from the date of the security.

Rule 206.00

STIPULATIONS AND UNDERTAKINGS

(a) Except in cases instituted by the United States by information, or complaint of information upon seizures for any breach of the revenue, navigation, or other laws of the United States, stipulations or bonds in admiralty and maritime actions need not be under seal and may be executed on behalf of the stipulator or obligor by his/her/its agent or counsel. Stipulations for costs with corporate surety need not be signed or executed by the party, but may be signed on his/her/its behalf by his/her/its agent or counsel, and shall be sufficient in any event if executed only by the surety approved by the court.

(b) If, before or after commencement of suit, the arresting, attaching or garnishing party accepts any written undertaking to respond on behalf of the vessel or other property sued in return for foregoing its arrest or for stipulating to the release of such vessel or other property, the undertaking shall be filed, shall become the res in place of the vessel or other property sued and shall be deemed the subject referred to when any pleading, order or judgment in the action refers to the vessel or other property. The preceding shall apply to any such undertaking, subject to its own terms, whether or not it has been approved by a judge or the clerk.

Rule 207.00

PLEADINGS AND PARTIES

(a) Every complaint filed as a FED. R. CIV. P. 9(h) action shall set forth "In Admiralty" following the designation of the court, in addition to the statement, if any, contained in the body of the complaint pursuant to such rule.

(b) In actions under Supplemental Rule B, C or D, FED. R. CIV. P. the business telephone number and address of the plaintiff's counsel or the plaintiff, if plaintiff appears *pro se*, shall be included.

(c) Every complaint in Supplemental Rules B and C, FED. R. CIV. P. actions shall state the amount of the debt, damages, or salvage for which the action is brought, and shall include in addition thereto the amounts of unliquidated

claims, including attorneys fees. The defendant or claimant may post bond pursuant to Supplemental Rule E(5) based on such allegations.

(d) In cases of salvage, the complaint shall also state to the extent known or estimated the value of the hull, cargo, freight and other property salvaged, the amount claimed, the names of the principal salvers, and that the suit is instituted in their behalf and in the behalf of all other persons interested or associated with them. There shall also be attached to the complaint a list of all known salvers and all persons believed entitled to share in the salvage, and also any agreement of consortship available and known to exist among them or any of them, including a copy of any such agreement.

Rule 208.00

VERIFICATION OF PLEADINGS AND ANSWERS TO INTERROGATORIES

Every complaint and claim in Supplemental Rules B, C and D, FED. R. CIV. P. actions shall be verified on oath or solemn affirmation by a party, or an officer of a corporate party. If no party or corporate officer is within the district, verification of a complaint, claim or answers to interrogatories may be made by an agent, attorney-in-fact or attorney of record, who shall state briefly the sources of his or her knowledge, information and belief, declare that the document affirmed is true to the best of his or her knowledge, information and belief, state the reason why verification is not made by the party or a corporate officer, and that he or she is authorized so to act. Any such verification will be deemed to have been made by the party to whom a document might apply as if verified personally. Any interested party may move the court, with or without a request for stay, for the personal oath of a party or all parties, or that of a corporate officer. If required by the court, such verification shall be procured by commission or as otherwise ordered.

Rule 209.00

INTERVENTION

(a) Presentation of Claim. When a vessel or other property has been arrested, attached or garnished, and is in the hands of the marshal or custodian substituted therefor, anyone seeking to enforce a claim against the vessel or property shall present the claim by filing an intervening complaint, and not by filing an original complaint, unless otherwise ordered by the court. The clerk shall promptly deliver a conformed copy of the complaint in intervention and the intervenor's warrant of arrest or process of attachment or garnishment to the marshal, who shall deliver the same to the vessel and custodian of the property. Intervenors shall thereafter be subject to the rights and obligations of a party originally arresting, attaching or garnishing the vessel or property unless otherwise herein provided, and the vessel or property shall stand arrested, attached or garnished by the intervenor. An intervenor shall not be required to advance a security deposit to the marshal.

(b) Intervention When Sale has been Scheduled. No party may intervene without first obtaining leave of court if intervention is sought less than 15 days prior to the date for which a sale of the vessel or property has been set by the court.

(c) Compliance with Rules. An Intervenor must comply with the Supplemental Rules for Certain Admiralty and Maritime Claims, the Federal Rules of Civil Procedure and these Local Rules in accomplishing and perfecting the arrest, attachment or garnishment unless otherwise provided in this Local Rule 89.00 or by order of the court.

(d) Sharing of Marshal's Fees and Expenses. At any time after the filing of a complaint in intervention, any party to the action or the Marshal may move the court for an order directing that the intervenor pay a fair share, as determined by the court, of the Marshal's fees and expenses incurred and to be incurred for the arrest, attachment, garnishment, keeping, maintenance and security of the vessel or other property. A hearing on such motion may be held upon three days notice.

(e) Intervenors' Obligations Upon Vacation of the Arrest, Attachment or Garnishment. If an original arrest, attachment or garnishment is vacated, an intervenor who has delivered conformed copies of his or her complaint in intervention to the Marshal shall bear responsibility for the Marshal's fees and expenses and shall deposit the sum required by the Marshal for fees and expenses within 48 hours after receiving written notice from the Marshal requiring such deposit. Such notice may be given as soon as the Marshal learns that the original arrest, attachment or garnishment is to be vacated. If more than one complaint in intervention has been delivered to the Marshal, the intervenors shall step

into the position of the originally arresting, attaching or garnishing party as provided herein in order of the delivery of their complaints in intervention to the Marshal.

(f) Service and Responsive Pleadings. Upon the filing of a complaint in intervention, the intervenor, in addition to any other service required by statute, the Federal Rules of Civil Procedure, these Local Rules or order of the court, shall serve a copy of (1) the complaint in intervention, (2) the order authorizing arrest, attachment or garnishment, and (3) the warrant, writ and/or summons on all parties who have appeared in the action pursuant to FED. R. CIV. P. 5. Within 20 days of such service, each party to the action shall serve an answer, motion or other responsive pleading to the complaint in intervention consistent with FED. R. CIV. P. 12 and the intervenor shall serve an answer, motion or other responsive pleading to the complaints and claims previously filed in the action.

Rule 210.00

DEFAULT IN ACTION *IN REM*

(a) Notice Required. A party seeking a default judgment in an action in rem must show that due notice of the action and arrest of the property has been given:

(1) By publication, as required in LAR 84;

(2) By service on the master or other person having custody of the property;

(3) By service on every other person who has not appeared in the action and is known to have an interest in the property; and

(4) By service in accordance with the Foreign Sovereign Immunities Act, if the property is subject to that Act.

(b) Persons with Recorded Interests.

(1) If the defendant property is a vessel documented under the laws of the United States, a party seeking default judgment must obtain a current certificate of ownership from the United States Coast Guard and attempt to serve persons named in the certificate who appear to have an interest in the property.

(2) If the defendant property is a vessel numbered as provided in the Federal Boat Safety Act, a party seeking default judgment must obtain information from the authority issuing the number and attempt to serve persons named in the records of the issuing authority who appear to have an interest in the property.

(3) If the defendant property is of such character that there exists a governmental registry of recorded property interests or security interests in the property, a party seeking default judgment must attempt to notify all persons named in the records of each such registry who appear to have an interest in the property.

(c) Manner of Giving Notice. A required notice, other than by publication, of the action and arrest of the property shall be given by delivery under Federal Rule 5(b).

Rule 211.00

ENTRY OF DEFAULT

After the time for filing claim or answer has expired, the plaintiff may request an entry of default under Federal Rule 55(a). Default will be entered upon showing that:

(a) Notice has been given as required in LAR 90:00; and

(b) No claim has been served or filed within the prescribed time or no answer has been served or filed within the prescribed time.

The plaintiff may move for judgment under Rule 55(b) at any time after default has been entered.

Rule 212.00

CUSTODY OF PROPERTY

(a) Safekeeping of Property When Seized. When a vessel, cargo or other property is seized, the Marshal shall take custody and arrange for adequate and necessary security for its safekeeping which may include, in the Marshal's discretion, the placing of keepers on or near the vessel, or the appointment of a facility or person as custodian of the property in lieu of the Marshal. When a vessel with crew aboard is seized, the removal of such crew shall fall within the discretion of the United States Marshal.

(b) Cargo Handling, Repairs and Movement of the Vessel. Upon arrest or attachment of the vessel, no cargo handling, repairs or movement of the vessel may be made without a court order except in an emergency situation in the discretion of the Marshal. Written notice shall be given to the Marshal and to all parties who have appeared prior to the application for such order, and the certificate of service of such notice shall be filed with the clerk before application is made to the court. For good cause shown, the court may direct the Marshal to allow the conduct of cargo handling, repairs, movement of the vessel or other operations on a vessel under arrest or attachment. Neither the United States nor the Marshal shall be liable for the consequence of the undertaking or continuation of any such activities during the arrest or attachment.

(c) Motion for Change in Arrangements. Prior to or after a vessel, cargo or property has been taken into custody by the Marshal, any party then appearing may move the court to dispense with keepers or to remove or place the vessel, cargo or other property at a specified facility, to designate a substitute custodian, or for similar relief. Notice of the motion shall be given to the Marshal and to all parties who have appeared.

(d) Insurance. The Marshal may order insurance to protect the Marshal, his or her deputies, keepers and substitute custodians from liability assumed in arresting and holding the vessel, cargo or other property and performing whatever services are undertaken to protect the vessel, cargo or other property and maintain the court's custody. The party applying for arrest of the vessel, cargo or other property shall reimburse the Marshal for premiums paid for the insurance. The party applying for removal of the vessel, cargo or other property to another location, for designation of a substitute custodian, or for other relief that will require an additional premium shall reimburse the Marshal therefor. The premiums charged for the liability insurance are taxable as administrative costs while the vessel, cargo or other property is *in custodia legis*.

(e) A person who furnishes supplies or services to a vessel, cargo, or other property in custody of the court who has not been paid and claims the right to payment as an expense of administration shall file a verified claim with the court at any time before the vessel, cargo, or other property is released or sold. The supplier must serve copies of the claim pursuant to Fed. R. Civ. P. 5(b), on the U.S. Marshal, substitute custodian (if one has been appointed), and all parties of record. The court may consider the claims individually or schedule a single hearing for all claims.

Rule 213.00

APPRAISAL

(a) Order for Appraisal. An order for appraisal of property so that security may be given or altered will be entered by the clerk at the written request of any interested party. If the parties do not agree in writing on the selection of the appraiser, the court will appoint the appraiser.

(b) Appraiser's Oath. The appraiser shall be sworn to the faithful and impartial discharge of duties before any federal or state officer authorized by law to administer oaths, and a copy of the oath shall be filed with the clerk.

(c) Appraisal. The appraiser shall give one day's notice of the time and place of making the appraisal to the parties who have appeared in the action. The appraiser shall file the appraisal in writing with the clerk as soon as it is completed and shall serve it on all parties.

(d) Cost of Appraisal. Absent stipulation of the parties or order of the court to the contrary, the appraiser shall be paid by the party requesting the appraisal. Appraiser's fees shall thereafter be taxed as the court orders.

Rule 214.00

SALE OF PROPERTY

(a) Publication of Notice of Sale. Unless otherwise ordered upon a showing of urgency, impracticality or other good cause, or as provided by law, notice of the sale of property shall be published daily, at least twice, the first publication to be a least one calendar week prior to date of sale and the second publication to be a least three calendar days prior to the date of sale, unless otherwise ordered by the court.

(b) Place of Sale. The place of sale will occur at the Federal Courthouse in the division in which the property is located unless the court otherwise directs.

(c) Payment of Bid. The person whose bid is accepted shall immediately pay the Marshal either the full purchase price if the bid is no more than $500 or a deposit of $500 or ten percent of the bid, whichever is greater, if the bid exceeds $500. The bidder shall pay the balance of the purchase price within three court days following the sale. If an objection to the sale is filed within that time, the bidder is excused from paying the balance of the purchase price until three court days after the sale is confirmed. Payments to the Marshal shall be in cash, certified check or cashier's check. The court may specify different terms in any order of sale.

(d) Penalty for Late Payment of Balance. A successful bidder who fails to pay the balance of the bid within the time allowed under these rules or a different time specified by the court shall also pay the Marshal the costs of keeping the property from the date payment of the balance was due to the date the bidder pays the balance and takes delivery of the property. Unless otherwise ordered by the court, the Marshal shall refuse to release the property until this additional charge is paid.

(e) Penalty for Default in Payment of Balance. A successful bidder who fails to pay the balance of the bid within the time allowed is in default and the court may at any time thereafter order a sale to the second highest bidder or order a new sale as appropriate. Any sum deposited by the bidder in default shall be forfeited and applied to pay any additional costs incurred by the Marshal by reason of the forfeiture and default, including costs incident to resale. The balance of the deposit, if any, shall be retained in the registry subject to further order of the court, and the court shall be given written notice of its existence whenever the registry deposits are reviewed.

(f) Report of Sale by the Marshal. At the conclusion of the sale, the Marshal shall forthwith file a written report with the court of the fact of sale, the date thereof, the price obtained, the name and address of the successful bidder, and any other pertinent information.

(g) Time and Procedure for Objection to Sale. An interested person may object to the sale by filing a written objection with the clerk within three court days following the sale, serving the objection on all parties, the successful bidder and the Marshal, and depositing a sum with the Marshal that is sufficient to pay the expense of keeping the property for at least seven days. Payment to the Marshal shall be in cash, certified check, or cashier's check. The written objection must be endorsed by the Marshal with an acknowledgment of receipt of the deposit prior to filing with the clerk.

(h) Confirmation of Sale Without Motion. A sale shall stand confirmed as of course without any affirmative action by the court unless (1) written objection is filed with the court within the time allowed under these rules, or (2) the purchaser is in default for failure to pay the balance due to the Marshal. The purchaser in a sale so confirmed as of course shall present a form of order reflecting the confirmation of the sale for entry by the clerk on the fourth court day following the sale. The Marshal shall transfer title to the purchaser upon presentation of such order by the clerk.

(i) Confirmation of the Sale on Motion. If an objection has been filed or if the successful bidder is in default, the Marshal, the objector, the successful bidder, or a party may move the court for relief. The motion will be heard summarily by the court. The person seeking a hearing on such motion shall apply to the court for an order fixing the date and time of the hearing and directing the manner of giving notice and shall give written notice of the motion to the Marshal, all parties, the successful bidder and the objector. The court may confirm the sale, order a new sale, or grant such other relief as justice requires.

(j) Disposition of Deposits.

(1) Objection Sustained. If an objection is sustained, sums deposited by the successful bidder will be returned to the bidder forthwith. The sum deposited by the objector will be applied to pay the fees and expenses incurred by the Marshal in keeping the property until it is resold, and any balance remaining shall be returned to the objector. The objector will be reimbursed for the expense of keeping the property from the proceeds of a subsequent sale.

(2) Objection Overruled. If the objection is overruled, the sum deposited by the objector will be applied to pay the expense of keeping the property from the day the objection was filed until the day the sale is confirmed, and any balance remaining will be returned to the objector forthwith.

(k) Title to Property. Failure of a party to give the required notice of the action and arrest of the vessel, cargo or other property or required notice of the sale may afford grounds for objecting to the sale but does not affect the title of a bona fide purchaser of the property without notice of the failure.

Rule 215.00

RELEASE OF SEIZURES -- CUSTODIAL COST -- GENERAL BONDS

(a) Property seized by the Marshal may be released as follows:

(1) By the Marshal upon the receipt of security by the Marshal, accompanied by the endorsed express authorization for release signed by the party or counsel for the party as provided by Supplemental Rule E(5)(c), FED. R. CIV. P. if all costs and charges of the court and its officers shall have first been paid. Monies received as part of any cash stipulation shall be delivered by the Marshal to the clerk for deposit in the registry of the court.

(2) In action entirely for a sum certain, by paying into the court the amount alleged in the complaint to be due, with interest at ten percent per annum thereon from the date claimed to be due to a date 24 months after the date the claim was filed, or by filing an approved stipulation for such alleged amount and interest. In either event, claim of the property shall be filed.

(3) In actions other than possessory, petitory, and partition, by filing, in addition to a claim of the property, an approved stipulation for the amount of the appraised or agreed value of the property seized, with interest (unless otherwise ordered by the court), interlocutory or final, and to pay the amount awarded by the final decree rendered by this court or by any appellate court, with interest.

(4) In possessory, petitory, and partition actions, only upon the order of the court, and on such security and terms as ordered.

(5) Upon the dismissal or discontinuance of the action or upon the written consent of the attorney for the party on whose behalf the property is detained, if all costs and charges of the court and its officers shall have first been paid.

(b) The Marshal shall not deliver any property so released until costs and charges of the Marshal shall first have been paid.

(c) In any general bond as provided for by Supplemental Rule E(5)(b), FED. R. CIV. P. the vessel will be identified by name, nationality, dimension, official number or registration number, hailing port and port of documentation, to the extent applicable. The owner of such vessel shall also file complete designated United States address for communications to the owner or designated agent, which shall be by mail. Execution of process against the vessel so stayed under Supplemental Rule E(5)(b), FED. R. CIV. P. shall be endorsed to the Marshal as stayed pursuant to the rule. Such process shall be served by the Marshal together with a copy of the complaint on the master or other person in whose charge or custody the vessel is found and the Marshal shall make his or her return thereof. If no master or other person in charge of custody is found aboard the vessel, the Marshal shall so make his or her return accordingly, and the clerk shall advise by mail the owner or designated agent, at the address furnished pursuant to this rule, of the nature of the action, any amount claimed, the plaintiff, the name and address of plaintiff's attorney, the case number, and the return day thirty days from the date of the Marshal's attempt. The clerk will maintain a current list of vessels subject to a general bond and file said bonds alphabetically by name of vessel and endorsed as provided by Supplemental Rule E(5)(b), FED. R. CIV. P.

Rule 216.00

TAXATION OF COSTS

If costs shall be awarded to either or any party, then the reasonable premium or expenses paid on all bonds or stipulations or other security by the party in whose favor such costs are allowed shall be taxed as a part of the costs of the case. In addition thereto, if costs shall be awarded to either or any party, then the reasonable expenses paid by a party incidental to or arising out of the attachment or arrest of any property in the proceedings or while said property is "in

custodia legis" shall be taxed as a part of the costs of the case.

Rule 217.00

STAY OF EXECUTION OR OF RELEASE OF PROPERTY AFTER JUDGMENT OR DISMISSAL

No execution of judgment shall issue nor shall seized property be released pursuant to judgment or order of dismissal, until ten days after its entry. Upon the filing of a motion for new trial or notice of appeal or motion to set aside default within said ten-day period, a further stay shall exist for a period not to exceed thirty days from the entry of judgment or dismissal to permit the entry of an order fixing the amount of a supersedeas bond and the filing of same.

Rule 218.00

POSSESSORY ACTIONS -- SHORT DAY RETURN

In all possessory actions upon special order of the court, process may be made returnable upon a short day. The answer shall be filed within such time as may be specifically ordered by the court, and a day of hearing then fixed, unless otherwise ordered. The hearing of possessory suits shall be given preference.

Rule 219.00

CLAIMS AFTER SALE - HOW LIMITED

Claims upon the proceeds of sale of property under a final decree, except for seamen's wages, shall not be admitted in behalf of lienors who file their claims after the sale, to the prejudice of lienors who filed their claims before the sale, but shall be limited to remnants and surplus, unless for cause shown it shall be otherwise ordered.

Rule 220.00

ALTERNATIVE DISPUTE RESOLUTION

In all actions governed by these Local Admiralty Rules, all parties are encouraged to consider early judicial intervention and at least one alternative dispute resolution procedure provided for in the Local Rules 30.00 - 32.00 or another form of alternative dispute resolution approved by the court. The alternative dispute resolution procedure shall be identified in the Discovery Plan and should be completed no later than 90 days after the entry of the Scheduling Order.

PATENT RULES

Rule 301.1

TITLE

These are the Local Rules of Practice for Patent Cases before the United States District Court for the Eastern District of North Carolina. They should be cited as "Local Patent Rule ____, EDNC."

Rule 301.2

PURPOSE, SCOPE AND CONSTRUCTION

(a) These rules are intended to supplement the Local Civil rules of this District to facilitate the speedy, fair and efficient resolution of patent disputes.

(b) These rules apply to all civil actions filed in or transferred to this Court which allege infringement of a utility patent in a complaint, counterclaim, cross-claim or third party claim, or which seek a declaratory judgment that a utility patent is not infringed, is invalid or is unenforceable.

(c) The Court may accelerate, extend, eliminate, or modify the obligations or deadlines set forth in these Local Patent Rules based on the circumstances of any particular case, including, without limitation, the complexity of the case or the number of patents, claims, products, or parties involved. If any motion filed prior to the Claim Construction Hearing provided for in Local Patent Rule 304.6 raises claim construction issues, the Court may, for good cause shown, defer the motion until after completion of the disclosures, filings, or ruling following the Claim Construction Hearing. The Local Civil Rules of this Court shall also apply to these actions, except to the extent that they are inconsistent with these Local Patent Rules.

Rule 301.3

EFFECTIVE DATE

These Local Patent Rules shall take effect on September 17th, 2007 and shall apply to any case filed or transferred to this Court thereafter. Relevant provisions of these rules may be applied to any pending case by the Court, on its own motion or on motion by any party.

Rule 302.1

GOVERNING PROCEDURE

(a) Initial Rule 26(f) Scheduling Conference ("Initial Scheduling Conference"). When the parties confer with each other pursuant to Fed. R. Civ. P. 26(f), in addition to the matters covered by Fed. R. Civ. P. 26, the parties must discuss and address in the Discovery Plan filed pursuant to Fed. R. Civ. P. 26(f) and Local Civil Rule 26.1(e)(2):

> **(1)** Proposed modification of the deadlines provided for in the Patent Local Rules, and the effect of any such modification on the date and time of the Claim Construction Hearing, if any;
> **(2)** Whether the Court will hear live testimony at the Claim Construction Hearing;
> **(3)** The need for and any specific limits on discovery relating to claim construction, including depositions of witnesses, including expert witnesses; and
> **(4)** The order of presentation at the Claim Construction Hearing.

(b) Further Scheduling Conferences. To the extent that some or all of the matters provided for in Local Patent Rule 302.1(a)(1)-(4) are not resolved or decided at the Initial Scheduling Conference, the parties shall propose dates for further Scheduling

Conferences at which such matters shall be decided.

Rule 302.2

CONFIDENTIALITY

(a) If any document or information produced under these Local Patent Rules is deemed confidential by the producing party and if the Court has not entered a protective order or otherwise ruled on the confidentiality of the document or information, then until a protective order is issued by the Court, the document shall be marked "confidential" or with some other confidential designation (such as "Confidential – Outside Attorneys Eyes Only") by the disclosing party and disclosure of the confidential document or information shall be limited to each party's outside attorney(s) of record and the employees of such outside attorney(s). If a party is not represented by an outside attorney, disclosure of the confidential document or information shall be limited to one designated "in house" attorney, whose identity and job functions shall be disclosed to the producing party five (5) court days prior to any such disclosure, in order to permit any motion for protective order or other relief regarding such disclosure. The person(s) to whom disclosure of a confidential document or information is made under this Local Patent Rule shall keep it confidential and use it only for purposes of litigating the case, unless and until the Court issues a ruling to the contrary.

(b) If a party wishes to file with the Court any document or information that has been designated as confidential pursuant to subsection (a) and as to which the Court has not ruled, that party must comply with the provisions of Local Civil Rule 79.2 by filing a motion to seal the document. If the party proffering the document or information designated as confidential does not agree it is entitled to be sealed, then the party shall so state in its motion to seal and the party that made the "confidential" designation shall be entitled, in its responsive brief, to explain its position. The provisions of Local Civil Rule 79.2 shall thereafter determine the status and handling of the material with respect to such filing.

Rule 302.3

CERTIFICATION OF INITIAL DISCLOSURES

All statements, disclosures, or charts filed or served in accordance with these Local Patent Rules must be dated and signed by counsel of record. Counsel's signature shall constitute a certification that to the best of his or her knowledge, information, and belief, formed after an inquiry that is reasonable under the circumstances, the information contained in the statement, disclosure, or chart is complete and correct at the time it is made.

Rule 302.4

ADMISSIBILITY OF DISCLOSURES

Statements, disclosures, or charts governed by these Local Patent Rules are admissible to the extent permitted by the Federal Rules of Evidence or Federal Rules of Civil Procedure. However, the statements or disclosures provided for in Local Patent Rules 304.1 and 304.2 are not admissible for any purpose other than in connection with motions seeking an extension or modification of the time periods within which actions contemplated by these Local Patent Rules must be taken.

Rule 302.5

RELATIONSHIP TO FEDERAL RULES OF CIVIL PROCEDURE

Except as provided in this paragraph or as otherwise ordered, it shall not be a legitimate ground for objecting to an opposing party's discovery request (e.g., interrogatory, document request, request for admission, deposition question) or declining to provide information otherwise required to be disclosed pursuant to Fed. R. Civ. P. 26(a)(1) that the discovery request or disclosure requirement is premature in light of, or otherwise conflicts with, these Local

Patent Rules. A party may object, however, to responding to the following categories of discovery requests (or decline to provide information in its initial disclosures under Fed. R. Civ. P. 26(a)(1)) on the ground that they are premature in light of the timetable provided in the Local Patent Rules:

(a) Requests seeking to elicit a party's claim construction position;
(b) Requests seeking to elicit from the patent claimant a comparison of the asserted claims and the accused apparatus, product, device, process, method, act, or other instrumentality;
(c) Requests seeking to elicit from an accused infringer a comparison of the asserted claims and the prior art; and
(d) Requests seeking to elicit from an accused infringer the identification of any opinions of counsel, and related documents, that it intends to rely upon as a defense to an allegation of willful infringement.

Where a party properly objects to a discovery request (or declines to provide information in its initial disclosures under Fed. R. Civ. P. 26(a)(1)) as set forth above, that party shall provide the requested information on the date on which it is required to provide the requested information to an opposing party under these Local Patent Rules, unless there exists another legitimate ground for objection.

Rule 303.1

DISCLOSURE OF ASSERTED CLAIMS AND PRELIMINARY INFRINGEMENT CONTENTIONS

Not later than thirty (30) days after the Initial Scheduling Conference, a party claiming patent infringement must serve on all parties a "Disclosure of Asserted Claims and Preliminary Infringement Contentions." Separately for each opposing party, the "Disclosure of Asserted Claims and Preliminary Infringement Contentions" shall contain the following information:

(a) Each claim of each patent in suit that is allegedly infringed by each opposing party;
(b) Separately for each asserted claim, each accused apparatus, product, device, process, method, act, or other instrumentality ("Accused Instrumentality") of each opposing party of which the party is aware. This identification shall be as specific as possible. Each product, device, and apparatus must be identified by name or model number, if known. Each method or process must be identified by name, if known, or by any product, device, or apparatus which, when used, allegedly results in the practice of the claimed method or process;
(c) A chart identifying specifically where each element of each asserted claim is found within each Accused Instrumentality, including for each element that such party contends is governed by the sixth paragraph of 35 U.S.C. § 112, the identity of the structure(s), act(s), or material(s) in the Accused Instrumentality that performs the claimed function;
(d) Whether each element of each asserted claim is claimed to be literally present or present under the doctrine of equivalents in the Accused Instrumentality;
(e) For any patent that claims priority to an earlier application, the priority date to which each asserted claim allegedly is entitled; and
(f) If a party claiming patent infringement wishes to preserve the right to rely, for any purpose, on the assertion that its own apparatus, product, device, process, method, act, or other instrumentality practices the claimed invention, the party must identify, separately for each asserted claim, each such apparatus, product, device, process, method, act, or other instrumentality that incorporates or reflects that particular claim.

Rule 303.2

DOCUMENT PRODUCTION ACCOMPANYING DISCLOSURE

With the "Disclosure of Asserted Claims and Preliminary Infringement Contentions," the party claiming patent infringement must produce to each opposing party or make available for inspection and copying:

(a) Documents (e.g., contracts, purchase orders, invoices, advertisements, marketing materials, offer letters,

beta site testing agreements, and third party or joint development agreements) sufficient to evidence each discussion with, disclosure to, or other manner of providing to a third party, or sale of or offer to sell, the claimed invention prior to the date of application for the patent in suit. A party's production of a document as required herein shall not constitute an admission that such document evidences or is prior art under 35 U.S.C. § 102;

(b) All documents evidencing the conception, reduction to practice, design, and development of each claimed invention, which were created on or before the date of application for the patent in suit or the priority date identified pursuant to Local Patent Rule 303.1(e), whichever is earlier; and

(c) A copy of the file history for each patent in suit.

The producing party shall separately identify by production number which documents correspond to each category.

Rule 303.3

PRELIMINARY NON-INFRINGEMENT AND INVALIDITY CONTENTIONS

Not later than forty-five (45) days after service upon it of the "Disclosure of Asserted Claims and Preliminary Infringement Contentions," each party opposing a claim of patent infringement, shall serve on all parties its "Preliminary Non-Infringement and Invalidity Contentions."

(a) Non-Infringement Contentions shall contain a chart, responsive to the chart required by Local Patent Rule 303.1(c), that states as to each identified element in each asserted claim, whether such element is present literally or under the doctrine of equivalents in each Accused Instrumentality, and, if not, the reason for such denial and the relevant distinctions.

(b) Invalidity Contentions must contain the following information:

(1) The identity of each item of prior art that allegedly anticipates each asserted claim or renders it obvious. Each prior art patent shall be identified by its number, country of origin, and date of issue. Each prior art publication must be identified by its title, date of publication, and where feasible, author and publisher. Prior art under 35 U.S.C. § 102(b) shall be identified by specifying the item offered for sale or publicly used or known, the date the offer or use took place or the information became known, and the identity of the person or entity which made the use or which made and received the offer, or the person or entity which made the information known or to whom it was made known. Prior art under 35 U.S.C. § 102(f) shall be identified by providing the name of the person(s) from whom and the circumstances under which the invention or any part of it was derived. Prior art under 35 U.S.C. § 102(g) shall be identified by providing the identities of the person(s) or entities involved in and the circumstances surrounding the making of the invention before the patent applicant(s);

(2) Whether each item of prior art anticipates each asserted claim or renders it obvious. If a combination of items of prior art makes a claim obvious, each such combination, and the motivation to combine such items, must be identified;

(3) A chart identifying where specifically in each alleged item of prior art each element of each asserted claim is found, including for each element that such party contends is governed by the sixty paragraph of 35 U.S.C. § 112, the identity of the structure(s), act(s), or material(s) in each item of prior art that performs the claimed function; and

(4) Any grounds of invalidity based on any applicable provision of 35 U.S.C. § 112.

Rule 303.4

DOCUMENT PRODUCTION ACCOMPANYING PRELIMINARY NON-INFRINGEMENT AND INVALIDITY CONTENTIONS

With the "Preliminary Non-Infringement and Invalidity Contentions," the party opposing a claim of patent infringement must produce or make available for inspection and copying:

(a) Source code, specifications, schematics, flow charts, artwork, formulas, or other documentation sufficient to show the operation of any aspects or elements of an Accused Instrumentality identified by the patent claimant in its Local Patent Rule 303.1(c) chart; and

(b) A copy of each item of prior art identified pursuant to Local Patent Rule 303.3(b)(1) that does not appear in the file history of the patent(s) at issue. To the extent any such item is not in English, an English translation of the portion(s) relied upon must be produced.

Rule 303.5

DISCLOSURE REQUIREMENT IN PATENT CASES FOR DECLARATORY JUDGMENT

(a) Invalidity Contentions If No Claim of Infringement. In all cases in which a party files a complaint or other pleading seeking a declaratory judgment that a patent is not infringed, is invalid, or is unenforceable, Local Patent Rule 303.1 and 303.2 shall not apply unless and until a claim for patent infringement is made by a party. If the defendant does not assert a claim for patent infringement in its answer to the complaint, no later than ten (10) days after the defendant serves its answer, or ten (10) days after the Initial Scheduling Conference, whichever is later, the party seeking a declaratory judgment must serve upon each opposing party its Preliminary Invalidity Contentions that conform to Local Patent Rule 303.3 and produce or make available for inspection and copying the documents described in Local Patent Rule 303.4. The parties shall meet and confer within ten (10) days of the service of the Preliminary Invalidity Contentions for the purpose of determining the date on which the plaintiff will file its Final Invalidity Contentions which shall be no later than fifty (50) days after service by the Court of its Claim Construction Ruling.

(b) Applications of Rules When No Specified Triggering Event. If the filings or actions in a case do not trigger the application of these Patent Local Rules under the terms set forth herein, the parties shall, as soon as such circumstances become known, meet and confer for the purpose of agreeing on the application of these Patent Local Rules to the case.

(c) Inapplicability of Rule. This Local Patent Rule 303.5 shall not apply to cases in which a request for a declaratory judgment that a patent is not infringed, is invalid, or is unenforceable is filed in response to a complaint for infringement of the same patent.

Rule 303.6

FINAL CONTENTIONS

Each party's "Preliminary Infringement Contentions" and "Preliminary Non-Infringement and Invalidity Contentions" shall be deemed to be that party's final contentions, except as set forth below.

(a) If a party claiming patent infringement believes in good faith that (1) the Court's Claim Construction Ruling or (2) the documents produced pursuant to Local Patent Rule 303.4 so requires, not later than thirty (30) days after service by the Court of its Claim Construction Ruling, that party may serve "Final Infringement Contentions" without leave of court that amend its "Preliminary Infringement Contentions" with respect to the information required by Local Patent Rule 303.1(c) and (d).

(b) Not later than fifty (50) days after service by the Court of its Claim Construction Ruling, each party opposing a claim of patent infringement may serve "Final Non-Infringement and Invalidity Contentions" without leave of court that amend its "Preliminary Non-Infringement and Invalidity Contentions" with respect to the information required by Local Patent Rule 303.3 if:

(1) a party claiming patent infringement has served "Final Infringement Contentions" pursuant to Local Patent Rule 303.6(a), or

(2) the party opposing a claim of patent infringement believes in good faith that the Court's Claim Construction Ruling so requires.

Rule 303.7

AMENDMENT TO CONTENTIONS

Amendment or modification of the Preliminary or Final Infringement Contentions or the Preliminary or Final Non-Infringement and Invalidity Contentions, other than as expressly permitted in Local Patent Rule 303.6, may be made only as expressly permitted by Local Rule 303.6, or within thirty (30) days of the discovery of new information relevant to the issues of infringement, noninfringement, or invalidity. Otherwise, amendment or modification shall be made only by order of the Court, which shall be entered only upon a showing of good cause.

Rule 303.8

WILLFULNESS; DISCOVERY OF OPINIONS OF COUNSEL

(a) The substance of any advice of counsel tendered in defense to a charge of willful infringement, and any other information which might be deemed to be within the scope of a waiver attendant to disclosure of such advice, shall not be discoverable until the earlier of:

(1) five (5) days after a ruling on summary judgment indicating a triable issue of fact to which willfulness would be relevant; or
(2) thirty (30) days prior to the close of fact discovery under the discovery track to which the case is assigned.

(b) On the day such willfulness information becomes discoverable, the party relying on such advice shall produce the following:

(1) a copy of all written opinions to be relied on by the party opposing the claim of infringement;
(2) a copy of all materials or information related to the opinion that were provided to the attorney in the course of preparation of each such opinion;
(3) a copy of all written attorney-work-product related to each such opinion that (i) was developed in the course of preparation of the opinion and (ii) was disclosed to the client;
(4) identification of the date, sender and recipient (but not necessarily the substance) of all written and oral communications between the party opposing the claim of infringement and the attorney or law firm rendering any opinions to be relied on, which communications discuss the same subject matter as such opinion;
(5) any other opinion(s) that discuss the same subject matter as such opinion and that were provided to the party opposing the claim of infringement by any other attorney or law firm, whether or not the party relied on such additional opinions; and
(6) identification of the date, sender and recipient (but not necessarily the substance) of all written and oral communications between the party opposing the claim of infringement and the attorney or law firm rendering such opinions that were not relied on, which communications discuss the same subject matter as such opinion.

(c) After such willfulness information becomes discoverable, a party claiming willful infringement shall be entitled (subject to any limitations, including limitations on numbers of depositions, otherwise imposed by the Scheduling Order) to take the deposition of any attorneys rendering the advice relied on and any persons who received such advice, including but not limited to any person who claims to have relied on such advice.
(d) A party opposing a claim of patent infringement who does not comply with the requirements of this Local Patent Rule 303.8 shall not be permitted to rely on an opinion of counsel as part of a defense to willful infringement absent a stipulation of all affected parties or by order of the Court, which shall be entered only upon a showing of good cause.

Rule 304.1

EXCHANGE OF PROPOSED TERMS AND CLAIM ELEMENTS FOR CONSTRUCTION

(a) Not later than fifteen (15) days after service of the "Preliminary Non-Infringement and Invalidity Contentions" pursuant to Local Patent Rule 303.3, each party shall simultaneously exchange a list of claim terms, phrases, or clauses which that party contends should be construed by the Court, and identify any claim element which that party contends should be governed by the sixty paragraph of 35 U.S.C. § 112.
(b) The parties shall thereafter meet and confer for the purposes of finalizing this list, narrowing or resolving differences, and facilitating the ultimate preparation of a Joint Claim Construction Statement.

Rule 304.2

EXCHANGE OF PRELIMINARY CLAIM CONSTRUCTIONS AND EXTRINSIC EVIDENCE

(a) Not later than twenty (20) days after the exchange of "Proposed Terms and Claim Elements for Construction" pursuant to Local Patent Rule 304.1, the parties shall simultaneously exchange a preliminary proposed construction of each claim term, phrase, or clause which the parties collectively have identified for claim construction purposes. Each such "Preliminary Claim Construction" shall also, for each element which any party contends is governed by the sixth paragraph of 35 U.S.C. § 112, identify the structure(s), act(s), or material(s) corresponding to that element.
(b) At the same time the parties exchange their respective "Preliminary Claim Constructions," they shall each also provide a preliminary identification of extrinsic evidence, including without limitation, dictionary definitions, citations to learned treatises and prior art, and testimony of percipient and expert witnesses they contend support their respective claim constructions. The parties shall identify each such item of extrinsic evidence by production number or produce a copy of any such item not previously produced. With respect to any such witness, percipient or expert, the parties shall also provide a brief description of the substance of that witness' proposed testimony.
(c) The parties shall thereafter meet and confer for the purposes of narrowing the issues and finalizing preparation of a Joint Claim Construction Statement.

Rule 304.3

JOINT CLAIM CONSTRUCTION STATEMENT

Not later than sixty (60) days after service of the "Preliminary Non-Infringement and Invalidity Contentions," the parties shall complete and file a Joint Claim Construction Statement, which shall contain the following information:

> **(a)** The construction of those claim terms, phrases, or clauses on which the parties agree.
> **(b)** Each party's proposed construction of each disputed claim term, phrase, or clause, together with an identification of all references from the specification or prosecution history that support that construction, and an identification of any extrinsic evidence known to the party on which it intends to rely either to support its proposed construction of the claim or to oppose any other party's proposed construction of the claim, including, but not limited to, as permitted by law, dictionary definitions, citations to learned treatises and prior art, and testimony of percipient and expert witnesses.
> **(c)** The anticipated length of time necessary for the Claim Construction Hearing.
> **(d)** Whether any party proposes to call one or more witnesses, including experts, at the Claim Construction Hearing, the identity of each such witness, and for each expert, a summary of each opinion to be offered in sufficient detail to permit a meaningful deposition of that expert.

No other Rule 26 report or disclosure shall be required for testimony directed solely towards claim construction.

Rule 304.4

COMPLETION OF CLAIM CONSTRUCTION DISCOVERY

Not later than thirty (30) days after service and filing of the Joint Claim Construction Statement, the parties shall complete all discovery relating to claim construction, including any depositions with respect to claim construction of any witnesses, including experts, identified in the Joint Claim Construction Statement.

Rule 304.5

CLAIM CONSTRUCTION BRIEFS

(a) Not later than forty-five (45) days after serving and filing the Joint Claim Construction Statement, each party shall serve and file an opening brief and any evidence supporting its claim construction.
(b) Not later than twenty (20) days after service upon it of an opening brief, each party shall serve and file its responsive brief and supporting evidence.
(c) Prior to the Claim Construction Hearing, the Court may issue an order stating whether it will receive extrinsic evidence, and if so, the particular evidence that it will exclude and that it will receive, and any other matter the Court deems appropriate concerning the conduct of the hearing.

Rule 304.6

CLAIM CONSTRUCTION HEARING

Subject to the convenience of the Court's calendar, the Court shall conduct a Claim Construction Hearing to the extent the Court believe a hearing is necessary for construction of the claims at issue.

Rule 305.1

DISCLOSURE OF EXPERTS AND EXPERT REPORTS

(a) For issues other than claim construction to which expert testimony shall be directed, expert witness disclosures and depositions shall be governed by this rule.
(b) No later than thirty (30) days after (1) the normal close of discovery pursuant to the discovery track to which the case was assigned, or (2) the close of discovery after claim construction, whichever is later, each party shall make its initial expert witness disclosures required by Rule 26 on the issues on which each bears the burden of proof;
(c) No later than thirty (30) days after the first round of disclosures, each party shall make its initial expert witness disclosures required by Rule 26 on the issues on which the opposing party bears the burden of proof;
(d) No later than ten (10) days after the second round of disclosures, each party shall make any rebuttal expert witness disclosures permitted by Rule 26.

Rule 305.2

DEPOSITIONS OF EXPERTS

Depositions of expert witnesses disclosed under this Rule shall commence within seven (7) days of the deadline service of rebuttal reports and shall be completed within thirty (30) days after commencement of the deposition period.

CRIMINAL RULES

Rule 1.1

SCOPE AND CITATION OF LOCAL RULES

These local rules of practice shall govern the conduct of the United States District Court for the Eastern District of North Carolina except when the conduct of this court is governed by federal statutes and rules. A judge or magistrate judge, for good cause and in his or her discretion, may alter these rules in any particular case. These rules shall be cited: "Local Criminal Rule ____, EDNC."

Rule 2.1

Reserved for Future Purposes

Rule 3.1

Reserved for Future Purposes

Rule 4.1

Reserved for Future Purposes

Rule 5.1

ASSIGNMENT OF MAGISTRATE JUDGES - CRIMINAL CASES

(a) **Misdemeanor Cases.** Upon the filing of an information, complaint or violation notice, or the return of an indictment, all misdemeanor cases shall be assigned by the clerk to a magistrate judge, who shall proceed in accordance with the provisions of 18 U.S.C. § 3401 and the Rules of Procedure for the Trial of Misdemeanors before United States Magistrate Judges.

(b) **Felony Cases.** Upon the return of an indictment or the filing of an information, all felony cases shall be assigned by the clerk to a magistrate judge for the conduct of an arraignment and such pre-trial conferences as are necessary, and for the hearing and determination of all pre-trial procedural and discovery motions.

Rule 5.2

ELECTRONIC DESIGNATION OF JUDGES

Any electronically generated designation of a district judge or magistrate judge does not mean that the judge so designated is assigned to the case.

Rule 6.1

Reserved for Future Purposes

Rule 7.1

Reserved for Future Purposes

Rule 8.1

Reserved for Future Purposes

Rule 9.1

Reserved for Future Purposes

Rule 10.1

ARRAIGNMENT

When a District Court Judge conducts the arraignment, the United States Attorney or an Assistant U.S. Attorney shall be present. If the arraignment is conducted by Magistrate Judges under the provision of FED. R. CRIM. P.19(B)(4) the presence of the U.S. Attorney at arraignment is not mandatory, and in the absence of the U.S. Attorney, the Magistrate Judge shall conduct the arraignment in accordance with FED. R. CRIM. P.10.

Rule 10.2

APPEARANCE BONDS

In the event a deed of trust is used to secure an appearance bond for a defendant, the grantor of the deed of trust is responsible for preparing and supplying the clerk with documentation necessary to cancel the deed of trust within fifteen (15) days of the date that the conditions of the appearance bond and deed of trust are satisfied. Grantor shall also be responsible for recording any documentation necessary to cancel the deed of trust and for payment of any costs associated with such cancellation. Failure of the Grantor to comply with these requirements shall relieve the clerk of any responsibility to cancel the deed of trust.

Rule 11.1

Reserved for Future Purposes

Rule 12.1

TIME PERIOD FOR FILING PRE-TRIAL MOTIONS IN CRIMINAL CASES

All pre-trial motions, including but not limited to motions to suppress and motions under Rules 7, 12, 14, 16, and 41 of the Federal Rules of Criminal Procedure shall be filed no later then thirty (30) days after indictment or initial appearance, whichever comes later. Responses shall be filed within ten (10) days after the service of such motions. Untimely motions may be summarily disregarded.

Rule 12.2

FURTHER DISCOVERY AND INSPECTION

In the event that either party thereafter moves to compel compliance with Local Criminal Rule 16.1(a) or for additional discovery or inspection, such motion shall be filed within the time period set by Local Criminal Rule 12.1. The motion shall contain:

(a) the statement that the prescribed conference was held;

(b) the date of said conference;

(c) the names of all counsel participating in the conference; and

(d) the statement that agreement could not be reached concerning the discovery or inspection that is the subject of the motion and the reasons given for the same.

Rule 12.3

DISCLOSURE OF CORPORATE AFFILIATIONS AND OTHER ENTITIES WITH A DIRECT FINANCIAL INTEREST IN LITIGATION

(a) All corporate defendants in a criminal case whether or not they are covered by the terms of Fed. R. Crim. P. 12.4, shall file a corporate affiliate/financial interest disclosure statement.

(b) The statement shall set forth the information required by Fed. R. Crim. P. 12.4 and the following:

(1) A trade association shall identify in the disclosure statement all members of the association, their parent corporations, and any publicly held companies that own 10% or more of a member's stock.

(2) All parties shall identify any publicly held corporation, whether or not a party to the present litigation, that has a direct financial interest in the outcome of the litigation by reason of a franchise, lease, other profit sharing agreement, insurance, or indemnity agreement.

(3) Whenever required by Fed. R. Crim. P. 12.4 or this rule to disclose information about a corporation that has issued shares to the public, a party shall also disclose information about similarly situated master limited partnerships, real estate investment trusts, or other legal entities whose shares are publicly held or traded.

(c) The disclosure statement shall be on a form provided by the clerk. A negative statement is required if a party has no disclosures to make.

(d) The disclosure statement shall be filed when the party makes an initial appearance in the action. The parties are required to amend their disclosure statements when necessary to maintain their current accuracy.

Rule 13.1

Reserved for Future Purposes

Rule 14.1

Reserved for Future Purposes

Rule 15.1

Reserved for Future Purposes

Rule 16.1

MOTIONS RELATING TO DISCOVERY AND INSPECTION

(a) In General. A discovery motion in a criminal action (FED. R. CRIM. P.16) shall state that a request for discovery and inspection was made and denied. Counsel must also certify that there has been a good faith effort to resolve discovery disputes prior to the filing of any discovery motions.

(b) Criminal Pre-Trial Conference. Within twenty (20) days after indictment or initial appearance, whichever comes later, the United States Attorney shall arrange and conduct a pre-trial conference with counsel for the defendant. At the pretrial conference and upon the request of counsel for the defendant, the Government shall permit counsel for the defendant to inspect and copy all discoverable evidence under Rule 16 of the Federal Rules of Criminal Procedure. Additionally, the Government shall provide the right to inspect, copy or photograph any exculpatory evidence.

At the pre-trial conference and upon the request of counsel for the defendant, the government shall permit

counsel for the defendant:

(1) to inspect and copy or photograph any relevant written or recorded statements or confessions made by the defendant, or copies thereof, within the possession, custody or control of the government, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the government;

(2) to inspect and copy or photograph any relevant results or reports of physical or mental examinations, and of scientific tests or experiments made in connection with the case, or copies thereof, within the possession, custody or control of the government, the existence of which is known, or by the exercise of due diligence may become known to the attorney for the government;

(3) to inspect and copy or photograph any relevant recorded testimony of the defendant before a grand jury;

(4) to inspect and copy or photograph books, papers, documents, tangible objects, buildings or places which are the property of the defendant and which are within the possession, custody or control of the government;

(5) to inspect and copy or photograph the Federal Bureau of Investigation Identification Sheet indicating defendant's prior criminal record; and

(6) to inspect, copy or photograph any exculpatory evidence.

(c) Discovery From Defendant. After discovery has been provided by the Government, and upon request of the Government, counsel for the defendant shall permit the Government to inspect any copy of all discoverable evidence under Rule 16(b) of the Federal Rules of Criminal Procedure.

(d) Exchange of Discovery by Mail. The United States Attorney and counsel for the defendant, in lieu of the conference, may agree to the exchange of discovery material by mail.

(e) Duty of Disclosure. Any duty of disclosure and discovery set forth in Local Criminal Rule 16.1 is a continuing one and the United States Attorney and counsel for the defendant shall produce voluntarily any additional relevant information gained by either of them.

Rule 17.1

TIME OF ISSUANCE OF SUBPOENAS IN CRIMINAL CASES

Subpoenas for witnesses in criminal cases shall be delivered to the Marshal or other person qualified to make service at least seven (7) days prior to the Monday of the week in which the case is set for trial. The failure of the Marshal or other qualified person to serve a subpoena not delivered within this time period shall not constitute sufficient cause for a continuance.

Rule 17.2

Reserved for Future Purposes

Rule 18.1

Reserved for Future Purposes

Rule 19.1

Reserved for Future Purposes

Rule 20.1

Reserved for Future Purposes

Rule 21.1

Reserved for Future Purposes

Rule 22.1

Reserved for Future Purposes

Rule 23.1

Reserved for Future Purposes

Rule 24.1

ATTORNEY PREPARATIONS FOR CRIMINAL TRIAL

(a) Unless the parties have previously entered into and executed a written plea agreement, counsel for each party shall file with the clerk and the assigned judge, on or before the Thursday preceding the first day of the session at which the criminal action is set for trial:

(l) *voir dire* questions as required by Local Criminal Rule 24.2;

(2) requests for jury instructions.

(b) Before jury selection begins, all parties shall file with the court a list of all witnesses each party, in good faith, reasonably anticipates will be called in its evidence-in-chief.

Rule 24.2

JURORS

(a) Jury Lists. When the jury for a session of the court is drawn, the clerk shall furnish a copy of the list to counsel for the parties or to any party acting *pro se* on a relevant trial roster, upon their request therefor. The list shall set out the name and county of residence of each prospective juror. The jurors and their families shall not be contacted, either directly or indirectly, in an effort to secure information concerning the background of any member of the jury panel. When the jurors are seated in the jury box, a chart or list shall be furnished by the clerk to the parties or their counsel, showing the name and seating assignment of each juror.

(b) Examination of Jurors. The court shall conduct the examination of prospective jurors. Five (5) days preceding the first day of the session at which an action is set for trial, counsel shall file a list of *voir dire* questions counsel desires the court to ask the jury other than routine questions such as (1) the occupations and addresses of jurors and their spouses, (2) the identity and relation of jurors, the parties, counsel and witnesses and (3) the knowledge of the jurors concerning the case.

(c) Contact with Trial Jurors. Following the discharge of a jury from further consideration of a case, no attorney or party litigant shall individually or through an investigator or any person acting for such attorney or party litigant ask questions of or make comments to a member of that jury or the members of the family of such a juror that are calculated merely to harass or embarrass such a juror or member of such juror's family or to influence the actions of such a juror or a member of such juror's family in future jury service.

Rule 25.1

Reserved for Future Purposes

Rule 26.1

Reserved for Future Purposes

Rule 27.1

Reserved for Future Purposes

Rule 28.1

Reserved for Future Purposes

Rule 29.1

Reserved for Future Purposes

Rule 30.1

REQUESTS FOR JURY INSTRUCTIONS

On or before the Thursday preceding the first day of the session at which the criminal action is set for trial, counsel shall file requests for jury instructions. Requests using*Federal Jury Practice and Instructions* (5th Ed.) by O'Malley, Grenig, and Lee, *5th Circuit Pattern Instructions*, and *North Carolina Pattern Instructions* shall include both the text of the proposed instruction as well as a citation reference to the proposed instruction. All other requests shall contain citations to supporting authorities.

Rule 31.1

TAKING VERDICTS AND POLLING THE JURY

The court may take the verdict of the jury in open court. Unless a defendant has fled or has been removed from the courtroom for misconduct, he/she must be in the courtroom when the verdict is announced. Unless the contrary affirmatively appears of record, it will be presumed that the parties were present or by their voluntary absence waived their presence. The jury will not be polled unless a party requests a poll at the time the verdict is taken or unless a poll is ordered by the court.

Rule 32.1

PETITION FOR DISCLOSURE OF PRESENTENCE OR PROBATION RECORDS

No confidential records of this court maintained by the probation office, including presentence and probation supervision records, shall be sought by any applicant except by written petition to this court establishing with particularity the need for specific information in the records. Whenever a probation officer is served with a subpoena or other judicial process seeking the production or disclosure of presentence and probation records and reports, the probation officer shall petition the Chief Judge of this court in writing for instructions with respect to responding to such process. In no event shall production or disclosure be made except pursuant to an order by a judge unless specifically authorized by procedures outlined in Local Rule 32.2(l).

Rule 32.2

PROCEDURES IMPLEMENTING SENTENCING GUIDELINES

(a) Scheduling of Sentencing. Sentencing proceedings shall be scheduled by the court at the time of adjudication of guilt not earlier than sixty (60) days following the adjudication of guilt.

(b) Time for Completion of Presentence Report. No later than thirty-five (35) days prior to sentencing, the probation officer shall complete and disclose the presentence investigation report to the defendant, counsel for the defendant, and counsel for the government.

(c) Time for Filing Objections to Presentence Report. Within fourteen (14) days thereafter, counsel shall communicate, in writing, to the probation officer objections to any material information, sentencing classifications, guideline ranges, and policy statements contained in or omitted from the report. A copy shall be served on opposing

counsel. The court may conduct a show cause hearing and/or disallow objections in any case where such objections are not timely filed.

(d) Procedure for Resolving Objections to Presentence Report. After receiving objections from counsel, the probation officer shall conduct such further investigation as may be necessary. Counsel shall confer with the probation officer to discuss and attempt to resolve contested issues. Thereafter, the probation officer shall make such revisions to the presentence investigation report as the probation officer deems appropriate. Unresolved contested issues, including a summary of the grounds for the objections, and the probation officer's comments on them, shall be contained in an addendum to the presentence investigation report. If an objection by any party affects the guideline computation, the probation officer must attach a copy of that party's objection to the final pre-sentence report, if that party so requests. The defendant and the government may each file a memorandum with the court explaining their respective positions on the unresolved objections. Any such memorandum must be served on opposing counsel and the probation office.

(e) Time for Filing Revised Presentence Report. The revised presentence investigation report and addendum shall be delivered to the judge, the defendant, and counsel not later than seven days prior to the sentencing hearing. The probation officer's sentencing recommendation shall be disclosed only to the judge. In the case of a juvenile, a disposition hearing must be held no later than 20 court days after the juvenile delinquency hearing subject to enumerated exceptions (18 USC § 5037(a)); therefore, the local rules with respect to time periods for disclosure of the presentence report do not apply.

(f) Expedited Procedures where Defendant Detained. If it appears that a defendant may be detained pending trial and sentencing for a period of time exceeding the sentence likely to be imposed under the guidelines, the court, upon motion of counsel for defendant at the time of adjudication of guilt, may direct the probation office to expedite the sentencing timetable.

(g) Court Acceptance of Presentence Report. The revised presentence investigation report may be accepted by the court as accurate except as to matters set forth in the addendum which shall be resolved as provided in Section 6Al.3 of the *United States Sentencing Commission Guidelines Manual.*

(h) Service of Presentence Report. The presentence investigation report shall be deemed to have been disclosed when a copy is physically delivered or three days after a copy is mailed. Such dates shall be certified on the report by the probation officer.

(i) Procedure at Sentencing. Before final judgment is entered in a case, the court shall disclose to the defendant, defense counsel, and the attorney for the government, the court's tentative findings of fact and interpretation of applicable guidelines and shall afford the parties an opportunity to object to said tentative findings of fact and interpretation of the guidelines.

(j) Receipt of Presentence Report Under Seal. The final presentence investigation report, addendum, and probation officer's recommendation shall be received by the clerk under seal for inclusion in the record and shall be otherwise disclosed only upon order. Defendants and counsel may retain their copies. In the event of post-sentencing proceedings, including appeal, habeas corpus application, or motion for modification or revocation of probation or supervised release, counsel of record may, upon request, be provided a copy of the presentence report by the probation office.

(k) Role of Defense Counsel in Presentence Investigation. Upon adjudication of guilt, the probation officer will initiate the presentence investigative process. Counsel for the defendant shall advise the probation officer attending court whether or not the defendant will submit to an interview with the officer and whether or not counsel desires to be present at the interview. Counsel, if attending, and the defendant shall make themselves available for the interview within 10 calendar days of adjudication..

(l) Disclosure of Presentence Report to Expert Witnesses and Agents. Counsel may provide a copy of the presentence report to expert witnesses and agents. Counsel are responsible for recovering the report at or prior to sentencing. In the case of a juvenile no information, including the presentence report, may be released except pursuant to a court order.

Rule 33.1

Reserved for Future Purposes

Rule 34.1

Reserved for Future Purposes

Rule 35.1

Reserved for Future Purposes

Rule 36.1

Reserved for Future Purposes

Rule 37.1

Reserved for Future Purposes

Rule 38.1

Reserved for Future Purposes

Rule 39.1

Reserved for Future Purposes

Rule 40.1

Reserved for Future Purposes

Rule 41.1

Reserved for Future Purposes

Rule 42.1

Reserved for Future Purposes

Rule 43.1

WAIVER OF APPEARANCE IN MISDEMEANORS CASES
FED. R. CRIM. P. 43(c)(2)

A defendant in misdemeanor cases may execute a written waiver of appearance which contains the following statements:

(a) the designation of counsel to appear in behalf of the defendant and the granting to such counsel of full authority to enter on behalf of the defendant a plea of guilty, not guilty, or nolo contendere to the offense charged, or to a lesser offense or offenses in lieu thereof;

(b) a consent to trial by the magistrate judge; and, a waiver of: (1) the right to be tried and sentenced by a district judge, (2) the right to a jury trial, (3) the right to testify in person, and (4) the right to face his or her accusers;

(c) an agreement to be bound by the decisions of the court as in any other case of adjudication and the entry of judgment subject to the right of appeal as in any other case; and,

(d) the circumstances which justify the approval of the written waiver of appearance by the court. The waiver of appearance must (1) be in writing, (2) be signed by the defendant and his or her counsel, (3) be consented to by the United States Attorney or an Assistant United States Attorney and (4) be approved by the court.

Rule 44.1

APPEARANCE OF COUNSEL IN CRIMINAL CASES

(a) Obligation to Notify the Court. A defendant who does not apply for representation at government expense, or who is deemed ineligible after application, must inform the court of the identity of retained counsel within ten (10) days of his or her first appearance before a judicial officer in this district. Retention of counsel outside this period will not constitute grounds for a continuance of pre-trial proceedings or trial unless the defendant demonstrates due diligence in attempting to retain counsel.

(b) Notice of Appearance. Counsel representing a defendant in a criminal action shall file a Notice of Appearance with the clerk and serve the U. S. Attorney and other counsel with a copy. The Notice of Appearance should contain the attorney's name and the name of the attorney's law firm, phone number and state bar number. The attorney also shall file contemporaneously a client disclosure statement in accordance with Fed. R. Crim. P. 12.4 and Local Criminal Rule 12.3.

Rule 44.2

DISCLOSURE STATEMENTS IN *PRO SE* LITIGATION

As part of making an appearance in every case, all *pro se* litigants (other than prisoners) shall file contemporaneously a disclosure statement in accordance with Fed. R. Crim. P. 12.4 and Local Crim. Rule 12.3.

Rule 45.1

Reserved for Future Purposes

Rule 46.1

Reserved for Future Purposes

Rule 47.1

MOTION PRACTICE

(a) General Requirements. All motions shall be concise and shall state precisely the relief requested. Motions shall conform to the general motions requirements, standards and practices set forth in the applicable Federal Rules of Procedure and in Local Criminal Rule 47.3. Time for the filing of pre-trial motions in criminal cases is governed by Local Criminal Rule 12.1.

(b) Supporting Memoranda. Except for motions which the clerk may grant as specified in Local Criminal Rule 77.2, all motions made other than in a hearing or trial shall be filed with an accompanying supporting memorandum in the manner prescribed by Local Criminal Rule 47.2(a). Where appropriate, motions shall be accompanied by affidavits or other supporting documents.

(c) Responses to Motions. Any party may file a written response to any motion. The response may be a memorandum in the manner prescribed by Local Criminal Rule 47.2(a) and may be accompanied by affidavits and other supporting documents. When the response is not a memorandum, the written response shall be accompanied by a supporting memorandum in the manner prescribed by Local Criminal Rule 47.2(a) and, when appropriate, by affidavits and other supporting documents. Responses and accompanying documents shall be filed within twenty (20) days after service of the motion in question unless otherwise ordered by the court or prescribed by the applicable Federal Rules of Procedure. **(d) Subsequently Decided Authority.** A suggestion of subsequently decided controlling authority, without argument, may be filed at any time prior to the court's ruling and shall contain only the citation to the case relied

upon if published or a copy of the opinion if the case is unpublished.

(e) Affidavits. Ordinarily, affidavits will be made by the parties and other witnesses and not by counsel for the parties. However, affidavits may be made by counsel for a party if the sworn facts are known to counsel or counsel can swear to them upon information and belief, and

(1) the facts relate solely to an uncontested matter; or

(2) the facts relate solely to a matter of formality and there is no reason to believe that substantial evidence will be offered in opposition to the facts; or

(3) the facts relate solely to the nature and value of the legal services rendered for the party by such counsel or counsel's law firm; or

(4) the refusal to accept the affidavit would work a substantial hardship on the party and the court finds that its acceptance of the affidavit would not be such as to require that counsel or counsel's law firm be disqualified from continuing to appear for the party.

(f) Hearings on Motions. Hearings on motions may be ordered by the court in its discretion. Unless so ordered, motions shall be determined without hearing.

(g) Frivolous or Delaying Motions. Where the court finds that a motion is frivolous or filed for delay, costs may be assessed against the party or counsel filing such motion.

(h) Motions for an Extension of Time to Perform an Act. All motions for an extension of time to perform an act required or allowed to be done within a specified time must show good cause, prior consultation with opposing counsel and the views of opposing counsel. The motion must be accompanied by a separate proposed order granting the motion.

Rule 47.2

SUPPORTING MEMORANDA

(a) Form and Content. A memorandum shall be in the form prescribed by Local Criminal Rule 47.3 and shall contain:

(1) a concise summary of the nature of the case;

(2) a concise statement of the facts that pertain to the matter before the court for ruling;

(3) the argument (brevity is expected) relating to the matter before the court for ruling with appropriate citations in accordance with Local Criminal Rules 47.2(b), (c) and (d);

(4) copies of any decisions in cases cited as required by Local Criminal Rules 47.2 (c) and (d)**.**

(b) Citation of Published Decisions. Published decisions cited should include parallel citations (except for U.S. Supreme Court cases), the year of the decision, and the court deciding the case. The following are illustrations:

(1) State Court Citation: *Rawls v. Smith*, 238 N.C. 162, 77 S.E.2d 701 (1953).

(2) District Court Citation: *Smith v. Jones*, 141 F. Supp. 248 (E.D.N.C. 1956).

(3) Court of Appeals Citation: *Smith v. Jones*, 237 F.2d 597 (4th Cir. 1956).

(4) United States Supreme Court Citation: *Smith v. Jones*, 325 U.S. 196 (1956). United States Supreme Court cases should be cited only to the United States Reports except that if a petition for certiorari or an appeal was filed in the United States Supreme Court, the disposition of the case in that court should always be shown. For example: *Carson v. Warlick*, 238 F.2d 724 (4th Cir. 1956), *cert. denied*, 353 U.S. 910 (1957).

(c) Citation of Decisions Not Appearing in Certain Published Reports. Decisions published outside the West Federal Reporter System, the official North Carolina reports and the official United States Supreme Court reports (e.g. CCH Tax Reports, Labor Reports, U.S.P.Q., reported decisions of other states or other specialized reporting services) may be cited if the decision is furnished to the court and to opposing parties or their counsel when the memorandum is filed.

(d) Citation of Unpublished Decisions. Unpublished decisions may be cited only if the unpublished decision is furnished to the court and to opposing parties or their counsel when the memorandum is filed. The unpublished decision of a United States District Court may be considered by this court. The unpublished decision of a United States Circuit Court of Appeals will be given due consideration and weight but will not bind this court. Such unpublished decisions should be cited as follows: *United States v. John Doe*, 5:94-CR-50-1-F (E.D.N.C. January 7, 1994) and *United States v. Norman*, No. 74-2398 (4th Cir. June 27, 1975).

(e) Length of Memoranda. Except as otherwise provided by these local rules, memoranda in support of or in

opposition to a motion shall not exceed thirty (30) pages in length without prior court approval.

Rule 47.3
FORMS OF PLEADINGS, MOTIONS AND DOCUMENTS

All pleadings, motions, discovery procedures, memoranda and other papers filed with the clerk or the court shall:

(a) be double-spaced on single-sided, standard letter size (8 ½ x 11) paper, with all typed matter appearing in at least 11 point font size with a one inch margin on all sides;

(b) state the court and division in which the action is pending;

(c) bear, except for initial filing, the case number assigned by the clerk;

(d) contain the caption of the case;

(e) if applicable, state the title of the pleading, motion, discovery procedure or document and the federal statute or rule number under which the party is proceeding;

(f) contain the individual name, firm name, address, telephone number, fax number and State Bar identification, where applicable, of all attorneys who appear for the filing party, including an attorney making a special appearance pursuant to Local Criminal Rule 83.1(e);

(g) bear the date when signed by counsel;

(h) be signed by counsel as required by Local Criminal Rule 83.1(d)/Local Criminal Rule 83.1(d) counsel may submit for filing a facsimile copy of the signature of out of state counsel on pleadings provided that a signature page with all original signatures is submitted to the court within two business days after the original filing;

(i) on all documents, the signature of parties and counsel shall be followed, on the line immediately below, by the typed or printed name in the exact form as the signature. In preparation of documents for signature by a judge or magistrate judge, a blank space shall be provided below the signature line in which the name may be typed or printed; and

(j) have each page numbered sequentially. The following forms are examples to be followed:

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. __:____-___-__

UNITED STATES OF AMERICA	)	
	)	
vs.	)	MOTION TO TRANSFER PROCEEDING
	)	FED. R. CRIM. P.21(a)
AARON T. JONES	)	
Defendant.	)	

(Closing)

This ____ day of January 200_.

_____
John B. Counselor
Attorney for Defendant
Abbot, Ball and Counselor
Attorneys at Law
200 Main Street
Post Office Box 50
Raleigh, North Carolina 27602
John.B.Counselor@email.address.com
(919) 878-8787
Fax (919) 878-8000
State Bar No. _____

Rule 47.4

FORM OF EXHIBITS TO MOTIONS

Exhibits containing double-sided documents are not permitted and will not be considered by the court. Condensed deposition transcripts are discouraged.

[Rule 47.5]

[Implementing Requirements of the E-Government Act of 2002]
(Rescinded eff. December 1, 2007)
see Civ. R. 5.2

Rule 47.6

EX PARTE MOTIONS

Unless the related case is already under seal, an *ex parte* motion shall only be sealed upon specific order of the court. A motion requesting permission to file an *ex parte* motion under seal shall include the *ex parte* motion as an attachment. The clerk shall treat the motion to seal and attachment as sealed pending order of the court.

Rule 48.1

Reserved for Future Purposes

Rule 49.1

FILING AND SERVICE OF PAPERS BY CONVENTIONAL MEANS

(a) **Electronic Filing**

(1) **Parties' Documents**

Unless otherwise permitted by the Electronic Case Filing Administrative Policies and Procedures Manual (Policy Manual), or otherwise authorized by the assigned judge, all documents submitted for filing shall be filed electronically using the Case Management/Electronic Case Filing system (CM/ECF) and in accordance with the Policy Manual. A document shall not be considered filed for the purposes of the Federal Rules of Criminal or Appellate Procedure until the filing party receives a system generated Notice of Electronic Fling (NEF). Any document electronically filed or converted by the clerk's office to electronic format shall be the official record of the court. As such, the clerk's office will not maintain a paper record of these documents. The clerk's office will not accept any facsimile transmission for filing unless ordered by the court.

(2) **Court-Generated Documents**

All orders, decrees, judgments, and proceedings of the court will be filed in accordance with the Policy Manual, which shall constitute entry of that document on the docket kept by the clerk under Rule 55 of the Federal Rules of Criminal Procedure. All signed orders will be filed electronically by the court or court personnel. Any order or other court-issued document filed electronically without the original signature of a judge or clerk has the same force and effect as if the judge or clerk had signed a paper copy of the order or other court-issued document and it had been entered on the docket in a conventional manner. Orders may be 'text only' entries on the docket, without an attached document. Such orders are official and binding.

(b) **Registered User**

Only an attorney who is registered in CM/ECF may file documents electronically. Registration constitutes consent to

service of all documents by electronic means as provided by the federal rules and the Policy Manual.

(c) **Signature**

The electronic filing of a document by an attorney who is a registered user shall constitute the signature of that attorney under Local Criminal Rule 47.3, EDNC. No attorney shall knowingly permit or cause to permit the attorney's CM/ECF password to be used by anyone other than an authorized employee of the attorney's law firm. No person shall knowingly use or cause another person to use the password of a registered attorney unless such person is an authorized employee of the attorney's law firm.

(d) **Entry on Docket**

The electronic filing of a document in accordance with the Policy Manual shall constitute entry of that document on the docket kept by the clerk under Rule 55 of the Federal Rules of Criminal Procedure. Except in the case of documents first filed in paper, a document filed electronically is deemed filed at the date and time stated on the NEF that is automatically generated by CM/ECF.

(e) **Service of Document**

Transmission of the NEF that is automatically generated by CM/ECF, except as provided in (f) below, constitutes service of the filed document on registered party users. Parties who are not registered users must be served with a copy of any document filed electronically in accordance with the Federal Rules of Civil Procedure. When more than one attorney in a law firm appears in a case, and not all of the attorneys are registered filing users, service of any court-generated document (i.e., orders, notices, etc.) will only be made on the attorneys registered in CM/ECF. It is the responsibility of the law firm's electronic users to notify all other firm members appearing in the case who are not receiving electronic notification. Non-registered attorneys will not receive paper copies from the court.

(f) **Exceptions to Electronic Filing**

Documents filed by a party who is not represented by an attorney permitted to practice in the Eastern District of North Carolina and registered in CM/ECF, and those documents listed in Section H of the Policy Manual, shall be filed in paper, and are excluded from electronic filing. Any document filed in paper that is not exempt pursuant to this section must be accompanied by a motion for leave to file the document and a proposed order. When filing in paper form, the document must have an original signature, and must be served upon opposing parties as provided in Rule 49(b) of the Federal Rules of Criminal Procedure.

Rule 49.2

FILING DOCUMENTS BY ELECTRONIC MEANS

Rescinded effective June 30, 2009, reserved for future use

Rule 49.3

SERVICE OF DOCUMENTS BY ELECTRONIC MEANS

Rescinded effective June 30, 2009, reserved for future use.

Rule 50

RELATED MATTERS IN CRIMINAL CASES

Related criminal cases shall be handled as follows in Local Criminal Rule 50.1 through 50.5.

Rule 50.1

DEFINITION OF RELATED CRIMINAL CASES

"Related cases" are matters which, by sharing common events or defendants, would entail substantial duplication of labor in pretrial, trial, or sentencing proceedings if heard by different judges, including prior cases that have been closed or dismissed. Examples of related cases may include but are not limited to:

(a) matters arising out of the same conspiracy, common scheme, transaction, series of transactions or events; or

(b) matters involving one or more defendants in common.

Rule 50.2

NOTICE OF RELATED CASES

Either the United States Attorney or defense counsel may file a Notice of Related Cases, as set forth in Rule 50.5, promptly upon determining that a later filed case and an earlier filed case are related cases.

Whenever counsel files a Notice of Related Cases, the Clerk shall prepare a proposed transfer order which shall be presented to the Court, along with the Notice and any response of a party filed pursuant to Subsection 50.5(b). The Court shall then decide to which judge to assign the case.

Rule 50.3

INDICTMENT WHEN PLEA PENDING

Whenever an information or indictment originating in another District is transferred to this Court pursuant to F.R.Crim.P. 20 and involves a defendant also proceeded against by indictment or information in this District, the Clerk shall directly assign the Rule 20 transferred matter to the calendar of the judge to whom the matter arising in this District is assigned.

If an indictment is returned in this District against a defendant who has a Rule 20 plea pending, the indictment shall be directly assigned to the judge to whom the Rule 20 plea has been assigned.

Rule 50.4

INDICTMENT OR INFORMATION PREVIOUSLY DISMISSED

Whenever an indictment or information has been dismissed before trial, any new indictment or information involving the same transaction or series of transactions and at least a majority of the same defendants shall be directly assigned to the judge to whom the first indictment or information was assigned.

Rule 50.5

NOTICE - ROLE OF COUNSEL

(a) The United States Attorney or defense counsel may call the Court's attention to the existence of related criminal cases at such time as counsel becomes aware that a later filed case and an earlier filed case are related cases. Counsel shall do so by promptly filing and serving in the later filed case a Notice of Related Criminal Cases identifying the earlier filed case and setting forth the reasons why counsel believes the cases are related. Whenever practicable, the United States Attorney shall file the Notice with the indictment or information and serve it on defense counsel promptly after defense counsel's appearance in the case.

(b) Any party may file a response to another party's Notice of Related Cases, or to the sua sponte

reassignment of a case under Rule 50.2 or 50.4, within 5 days after the Notice is served, or sua sponte reassignment is made, or within such time as the Court may set. Whenever practicable, the Court will resolve the assignment of the case within 10 days thereafter.

Rule 51.1

Reserved for Future Purposes

Rule 52.1

Reserved for Future Purposes

Rule 53.1

PHOTOGRAPHING AND REPRODUCING COURT PROCEEDINGS

The taking of photographs, broadcasting or recording of proceedings in any form in the courtroom, court offices or in the corridors immediately adjacent thereto, during judicial proceedings or during any recess of the court is prohibited except as set forth below. The taking of photographs, broadcasting or recording of ceremonial proceedings, such as naturalization proceedings, the administration of oaths of office to officers of the court, presentation of portraits and other ceremonial occasions may be allowed with the permission of the presiding judge and under the supervision and control of the court.

Rule 54.1

Reserved for Future Purposes

Rule 55.1

EXHIBITS

The clerk shall be the custodian of all exhibits admitted into evidence. Upon ten days notice by mail to counsel for all parties, the clerk may, within thirty (30) days after the entry of final judgment, destroy or otherwise dispose of the exhibits.

Rule 55.2

SEALED DOCUMENTS

(a) Filing Sealed Documents. Absent statutory authority, no cases or documents may be sealed without an order from the court. A party desiring to file material under seal must first file a motion seeking leave to file the information under seal, or have a court-approved protective order in place.

(b) Proposed Sealed Documents. All proposed, sealed material which accompanies a Motion to Seal shall be received by the clerk and temporarily sealed, pending a ruling on the motion to seal. The filing of a Motion to Seal documents will toll the time for filing the material. If the Motion to Seal is allowed, the sealed material shall be filed on the same date as the order allowing the filing under seal. If the motion to file the material under seal is denied, the movant will be given an option of retrieving the material or having it filed the same date as the order denying the filing under seal.

(c) Docketing Sealed Documents. When material is filed under seal, the docket will indicate generically the type of document filed under seal, but it will not contain a description that would disclose its identity.

(d) Return of Sealed Materials. After the action concludes and all appeals have been completed, counsel is charged with the responsibility of retrieving and maintaining all sealed documents. Upon ten (10) days notice by mail

to counsel for all parties, and within thirty (30) days after final disposition, the court may order the documents to be unsealed and they will thereafter be available for public inspection.

(e) Form. All under seal or potentially under seal documents shall be delivered to the Clerk's Office enclosed in a red envelope, marked with the case caption, case number, and a descriptive title of the document, unless such information is to be, or has been, among the information ordered sealed. Additionally, the following information will be prominently displayed:

SEALED PURSUANT TO ORDER ENTERED ON __/__/200_

OR

PROPOSED SEALED MATERIAL: SUBMITTED PURSUANT TO MOTION TO SEAL FILED ON __/__/200_

Rule 56.1

COURTS AND CLERKS

(a) Court in Continuous Session. This court shall be in continuous session in all divisions of the District on all business days throughout the year. All matters of either a criminal or civil nature not reached at the regular sessions of court are deemed to be in an open status and subject to being called for disposition before the next regular session of court upon reasonable notice to the interested parties.

(b) Assignment of Cases to a Division. The clerk shall assign all criminal indictments to a division when an indictment is filed or transferred. If the indictment alleges the crime occurred within the District, the clerk shall assign the action to the division in which the crime is alleged to have occurred. In cases where it is not alleged that the crime occurred in the District or in cases in which it is unclear in which division the alleged crime occurred, the clerk shall assign the indictment to the division in which the first named defendant, who resides within this District, resides. In all other instances, an indictment shall be assigned to a division in the discretion of the clerk.

(c) Orders and Judgments. The clerk or deputy clerk is authorized to enter the orders and judgments listed below without further direction of the court. However, such action may be suspended, altered or rescinded by the court for cause shown.

(1) Consent orders for substitution of attorneys.

(2) Orders extending for a reasonable amount of time the period within which an act must be performed under the local rules of this court.

(3) Orders canceling liability on bonds.

(4) Orders changing the time of opening and adjourning court in the absence of the judge.

(5) Certification of law students and supervising attorneys pursuant to Local Criminal Rule 83.2.

(6) Any other motion, rule or order which may be granted of course or without notice.

Rule 57.1

ATTORNEYS

(a) Roll of Attorneys. The bar of this court consists of those heretofore admitted and those hereafter admitted as prescribed by this Local Criminal Rule 57.1.

(b) Eligibility. A member in good standing of the bar of the Supreme Court of North Carolina is eligible for admission to the bar of this court.

(c) Procedure for Admission. Before being presented to the court for taking the required oath, an applicant for admission shall certify in a written application that such applicant:

(1) Is a member in good standing of the bar of the Supreme Court of North Carolina; and

(2) Has studied the Federal Rules of Civil and Criminal Procedure, the Federal Rules of Evidence, and the Local Rules of this court.

In addition to these certifications, the written application shall contain the certification of two attorneys who are members

in good standing of the bar of this court that the applicant is of good moral character and professional reputation and meets the requirements for admission. An applicant may be admitted to practice in this court by a district judge, bankruptcy judge, or magistrate judge of this court or of the United States District Court for the Middle District or Western District of North Carolina upon oral motion by a member of the bar of this court. If the motion for admission is granted, the applicant shall take the following oath or affirmation:

> I do solemnly swear that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic, and that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will demean myself as an attorney of this court, uprightly and according to law. So help me God.

Following the administration of the oath, the application shall be signed by the judge or magistrate judge and the applicant shall file the application, accompanied by a fee of $180.00, with the clerk. The clerk shall then issue the applicant a certificate of admission to the bar of this court. Upon the filing of a properly certified and executed application accompanied by the admission fee of $180.00, the clerk may accept for filing papers signed by the applicant. However, no applicant shall make an appearance on behalf of a client, either before a magistrate or district judge, by telephone conference or in person, until the applicant has taken the oath.

(3) Current law clerks to judges of this Court as well as magistrate judges and bankruptcy judges within this District shall be admitted to the bar of this Court without payment of an admission fee.

(d) Representation by Local Counsel Who Must Sign All Documents. Litigants criminal actions, except governmental agencies and parties appearing *pro se*, must be represented by at least one member of the bar of this court who shall sign all documents filed in this court, including his or her state bar number and fax number in the signature block on all pleadings. If an attorney appears solely to bring the litigant in compliance with this local rule, he shall in each instance designate himself "LR 57.1 Counsel." In signing documents, counsel certifies that he is an authorized representative for communication with the court about the litigation, and the document conforms to the practice and procedure of this court. Signatures in the following form shall be sufficient to comply with this local rule. Local Criminal Rule 57.1 Local Counsel must include state bar number and fax number in the signature block on all pleadings:

_____

Jane M. Jones
Attorney for Defendant
Jones, Jones and Jones
P.O. Box 500
New York, NY 10050
Jane.jones@email.address.com
(212) 555-1212
State Bar No.

_____

John B. Counselor
Attorney for Defendant
Abbott, Ball and Counselor
P.O. Box 50
Raleigh, NC 27602
John.B.Counselor@email.address.com
(919) 878-8787
Fax (919) 878-8000
LR 57.1 Counsel
State Bar No.

(e) Appearances by Attorneys Not Admitted in the District - Special Appearance.
(1) Attorneys who are members in good standing of the bar of a United States District Court and the bar of the highest court of any state or the District of Columbia may practice in this court for a particular case in association with a member of the bar of this court. By filing a Notice of Appearance, completing an Electronic Filing Attorney Registration Form, and complying with Section J.(1) of the Policy Manual, an attorney agrees that:

(a) the special appearance attorney will be responsible for ensuring the presence of an attorney who is familiar with the case and has authority to control the litigation at all conferences, hearings, trials and other proceedings;
(b) the attorney submits to the disciplinary jurisdiction of the court for any misconduct in connection with the litigation in which the attorney is specially appearing; and
(c) for purposes of Fed. R. Civ. P.11, the Federal Rules of Civil and Criminal Procedure and the Local Rules of this court, the special appearance attorney's electronic signature shall carry the same force and effect as an original signature.

(2) An attorney who is not a member of the bar of this court will not receive electronic notification until the attorney becomes a registered CM/ECF filer with this court and files a Notice of Appearance.
(3) A member of the bar of this court who accepts employment in association with a special appearance attorney is responsible to this court for the conduct of the litigation of the proceeding, must be a CM/ECF registrant and shall review for submission by the special appearance attorney all pleadings and papers electronically filed in compliance with Section J.(1) of the Policy Manual. The responsibility of the member of the bar who accepts employment in association with a special appearance attorney and who designates him or herself as Local Criminal Rule 57.1 local counsel shall be governed by Local Criminal Rule 57.1(d).
(4) Any document filed by a special appearance attorney that does not comport with associated LR 57.1 counsel's standards may be objected to. Any such objection must be filed within five (5) days of the issuance of the NEF for the document.

(f) Pleadings, Service, and Attendance by Local Counsel in Cases Where Out-of-State Attorneys Appear by Special Appearance. Pleadings and other documents filed in a case where an attorney appears who is not admitted to the bar of this court shall contain the individual name, firm name, address and phone number of both the attorney making a special appearance under this local rule and the associated local counsel. As part of making an appearance in every case, an attorney also shall file contemporaneously a client disclosure statement in accordance with Fed. R. Crim. P. 12.4 and Local Criminal Rule 12.3. The service of all pleadings and notices as required shall be sufficient if served

only upon the associated local counsel. Local counsel shall attend all court proceedings unless excused by the court.

(g) Withdrawal of Appearance. No attorney whose appearance has been entered shall withdraw his or her appearance or have it stricken from the record except with leave of the court.

(h) Courtroom Decorum. Counsel shall conduct themselves with dignity and propriety. Counsel shall rise when addressing the court, and all statements to the court shall be made from a counsel table or from behind the lectern facing the court. Counsel shall not approach the bench unless requested to do so by the court or unless permission is granted upon the request of counsel.

(i) Questioning of Witnesses. Only one attorney for each party may question a particular witness unless the court allows otherwise. Counsel shall remain seated while questioning witnesses.

(j) Professional Standards. The ethical standard governing the practice of law in this court are the Revised Rules of Professional Conduct now in force and as hereafter modified by the Supreme Court of North Carolina, except as may be otherwise provided by specific local rule of this court. Counsel are directed to advise the clerk within ten days of disciplinary action taken against them resulting in suspension or disbarment. The disciplinary procedures of this court shall be on file with the clerk and furnished to counsel upon request.

(k) Admission of Attorneys Previously Admitted to the United States District Courts for the Middle or Western Districts of North Carolina. Attorneys already admitted to the bar of either the United States District Court for the Middle District of North Carolina or the United States District Court for the Western District of North Carolina may be admitted to the bar of this court upon tendering the application and fees required by Local Criminal Rule 57.1(c), together with a copy of the order admitting the attorney to practice in one of the other districts, without the necessity of taking the oath that is otherwise required and without obtaining the character certification by two members of the bar of this court.

Rule 57.2

STUDENT PRACTICE RULE

(a) Compliance With Rule. Students may participate as counsel in civil and criminal cases in this court subject to their compliance with all of the requirements of this Local Criminal Rule 57.2.

(b) Eligibility. An eligible student must:

(1) be duly enrolled in a law school;

(2) have completed at least three semesters of legal studies;

(3) have knowledge of the Federal Rules of Civil and Criminal Procedure, the Federal Rules of Evidence, the Code of Professional Responsibility, and the Local Rules of this court;

(4) be supervised by a supervising attorney as defined in Local Criminal Rule 57.2(c);

(5) be certified by the Dean of the Law School where the student is enrolled, or the Dean's designee, as being of good character, sufficient legal ability, and adequately trained to fulfill the responsibilities of a legal intern to both the client and the court;

(6) be certified by the court to practice pursuant to this Local Criminal Rule 57.2; and

(7) decline personal compensation for his or her legal services from a client or any other source.

(c) Supervising Attorney. A supervisor must:

(1) either (1) have faculty or adjunct faculty status at a law school at which a portion of the supervisor's duties includes supervision of students in a clinical program; or (2) be a member of the bar of this court for at least two years, who in the determination of the court, is competent to carry out the role of supervising attorney;

(2) be admitted to practice in this court;

(3) be certified by the court as a student supervisor;

(4) be present with the student at all times in court, and at other proceedings in which testimony is taken;

(5) co-sign all pleadings or other documents filed with the court;

(6) assume full personal and professional responsibility for a student's guidance and any work undertaken and for the quality of the student's work, and to be available for consultation with represented clients;

(7) assist and counsel the student in activities mentioned in Local Criminal Rule 57.2(e), and review such activities with the student, all to the extent required for proper practical training of the student and the protection of the client; and

(8) supplement oral or written work of the student as necessary to insure proper representation of the client.

(d) Certification of Student and Supervisor.

(1) **Student.** The court's certification of a student to practice under this Local Criminal Rule 57.2 shall be filed with the clerk and shall remain in effect for 18 months or until the student graduates from law school, whichever is earlier. Certification to appear generally or in a particular case may be withdrawn by the court at any time, in the discretion of the court, and without any showing of cause.

(2) **Supervising Attorney.** Certification of the supervising attorney shall be filed with the clerk, and shall remain in effect indefinitely unless withdrawn by the court, in its discretion, and without any showing of cause.

(e) Activities. A certified student may under the personal supervision of his or her supervisor:

(1) represent any client including federal, state or local governmental bodies, if the client on whose behalf the certified student is appearing has consented in writing to that appearance and the supervising lawyer has given written approval of that appearance;

(2) represent a client in any criminal, civil or administrative matter; however, the court retains the authority to limit a student's participation in any individual case;

(3) in connection with matters in this court, engage in other activities on behalf of the client in all ways that a licensed attorney may, under the general supervision of the supervising lawyer; however, a student shall make no binding commitments on behalf of a client absent prior client and supervisor approval, and in any matters, including depositions, in which testimony is taken the student must be accompanied by the supervising lawyer. Documents or papers which are filed shall be read, approved, and co-signed by the supervising lawyer. The court retains the authority to establish exceptions to such activities; and

(4) prior to oral participation by a certified student in a hearing or trial, the supervising attorney shall provide the court with a written statement of the scope of participation anticipated on the part of the certified student.

Rule 57.3

CHANGE OF ADDRESS

All attorneys and *pro se* parties must notify the court in writing within ten (10) days of any change of address. Failure to notify the court in a timely manner of an address change may result in dismissal of the action or the imposition of such other relief that the court deems just and proper.

Rule 57.4

CORRESPONDENCE

Correspondence addressed to the court shall indicate that copies have been transmitted to all other parties and failure to transmit the same to all other parties may result in sanctions by the court. Such correspondence shall not become a part of the record in the case.

Rule 58.1

MAGISTRATE JUDGES

(a) Disposition of Misdemeanor Cases -- 18 U.S.C. § 3401. A magistrate judge may:

(1) try persons accused of, and sentence persons convicted of, misdemeanors committed within this district in accordance with 18 U.S.C. § 3401;

(2) direct the probation service of the court to conduct a presentence investigation in any misdemeanor case; and

(3) conduct a jury trial in any misdemeanor case where the defendant so requests and is entitled to trial by jury under the Constitution and laws of the United States.

(b) Appeal from Judgments in Misdemeanor Cases -- 18 U.S.C. § 3402. A defendant may appeal a judgment of conviction by a magistrate judge in a misdemeanor case by filing a notice of appeal and paying a Thirty-Two Dollar ($32.00) filing fee within ten (10) days after entry of the judgment, and by serving a copy of the notice upon the United

States Attorney. The scope of appeal shall be the same as on an appeal from a judgment of the district court to the court of appeals.

(1) Upon receipt of the notice of appeal, the clerk shall docket the appeal and assign the case to a district judge.

(2) The record on appeal shall consist of the original papers and exhibits filed in the proceedings before the Magistrate Judge and the transcript of proceedings, if any.

(3) Unless excused by order of the district judge, every appellant shall be responsible for preparation of a typewritten transcript of the proceedings before the magistrate judge from which an appeal has been taken. Preparation of the transcript should be coordinated with the Clerk of Court. If such transcript has been prepared from an audio tape recording, the transcript shall be submitted to the magistrate judge for certification of its accuracy. After certification by the magistrate judge, the transcript shall be forwarded to the clerk for filing, and the clerk shall promptly notify the parties of the filing. A copy of the record of such proceedings shall be made available at the expense of the court, to a person who establishes by affidavit the inability to pay or give security therefore.

(4) Within 15 days of the date on which the transcript is filed in the clerk's office, or if there is to be no transcript, within 15 days of the filing of the notice of appeal, the appellant shall serve and file a memorandum which shall enumerate each reversible error claimed to have occurred in the proceedings before the magistrate judge and shall explain the factual and legal basis for each claimed error, with citations to the record and to pertinent legal authorities. Within 15 days of service of the appellant's memorandum, the appellee shall serve and file a memorandum that responds to each claim of error. The appellant may serve and file a reply brief within 7 days of service of the appellee's brief. All memoranda shall conform to the requirements and length restrictions of Local Rules 47.2 and 47.3.

(5) The district judge to whom the appeal is assigned may hear oral argument or may decide the appeal on the briefs. Requests for oral argument shall be made at the time briefs are filed and shall be granted at the discretion of the district judge.

Rule 59.1

Reserved for Future Purposes

Rule 60.1

Reserved for Future Purposes

Rule 61.1

PUBLICITY IN CRIMINAL MATTERS

(a) In General. All court personnel, including but not limited to, the marshal and deputy marshals and office personnel, the clerk and deputy clerks and office personnel, probation officers and office personnel, bailiffs, court reporters, and the judges' and magistrate judges' office personnel, are prohibited from disclosing to any person, where it can reasonably be expected to be disseminated by means of public communication, without authorization of the court, information relating to any pending matter, civil or criminal, that has not been filed as a part of the public records of the court. This proscription applies to the divulgence of any information concerning arguments and hearings held in chambers or otherwise outside the presence of the jury or the public.

(b) Statements By One Participating in or Associated With an Investigation. An attorney participating in or associated with the investigation of a criminal matter shall not make or participate in making any extra-judicial statement that a reasonable person would expect to be disseminated by means of public communication and that does more than state without elaboration:

(1) information contained in a public record;

(2) that the investigation is in progress;

(3) the general scope of the investigation including a description of the offense and, if permitted by law, the identity of the victim;

(4) a request for assistance in apprehending a suspect or assistance in other matters and the information

necessary thereto; and

(5) a warning to the public of any dangers.

(c) Statements After Filing Complaint, Information, or Indictment, Issuance of Warrant or Arrest. An attorney or law firm associated with the prosecution or defense of a criminal matter shall not, from the time of the filing of a complaint, information, or indictment, the issuance of an arrest warrant, or arrest until the commencement of the trial or disposition without trial, make or participate in making an extra-judicial statement that a reasonable person would expect to be disseminated by means of public communication that relates to:

(1) the character, reputation, or prior criminal record (including arrests, indictments, or other charges of crime) of the accused;

(2) the possibility of a plea of guilty to the offense charged or to a lesser offense;

(3) the existence or contents of any confession, admission, or statement given by the accused or the refusal or failure of the accused to make a statement;

(4) the performance or results of any examinations or tests or the refusal or failure of the accused to submit to examination or tests;

(5) the identity, testimony, or credibility of a prospective witness; or

(6) any opinion as to the guilt or innocence of the accused, the evidence, or the merits of the case.

(d) Statements That Can Be Made. This local rule does not preclude an attorney during such period from announcing:

(1) the name, age, residence, occupation, and family status of the accused;

(2) if the accused has not been apprehended, any information necessary to aid in apprehension of the accused or to warn the public of any dangers the accused may present;

(3) a request for assistance in obtaining evidence;

(4) the identity of the victim of the crime;

(5) the fact, time, and place of arrest, resistance, pursuit, and use of weapons;

(6) the identity of investigating and arresting officers or agencies and the length of the investigation;

(7) at the time of seizure, a description of the physical evidence seized, other than a confession, admission or statement;

(8) the nature, substance, or text of the charge;

(9) quotations from or references to public records of the court in the case;

(10) the scheduling or result of any step in the judicial proceedings; or

(11) that the accused denies the charges made against him.

(e) Statements During Jury Selection or Trial. During the selection of a jury or the trial of a criminal matter, an attorney or a law firm associated with the prosecution or defense of a criminal matter shall not make or participate in making any extra-judicial statement that a reasonable person would expect to be disseminated by means of public communication and that relates to the trial, parties, or issues in the trial or other matters that are reasonably likely to interfere with a fair trial, except that the attorney may quote from or refer without comment to public records of the court in the case.

(f) Statements After Trial, Disposition Without Trial, or Sentencing. After the completion of a trial or disposition without trial of a criminal matter and prior to the imposition of sentence, an attorney or a law firm associated with the prosecution or defense shall not make or participate in making an extra-judicial statement that a reasonable person would expect to be disseminated by public communication and that is reasonably likely to affect the sentence.

(g) Statements of Staff and Employees. An attorney shall exercise reasonable care to prevent employees and associates from making an extra-judicial statement that the attorney would be prohibited from making under this Local Criminal Rule 45.00 and 61.1.

Rule 100.1

COURT LIBRARIES

The clerk shall maintain the court libraries in the district. Use of the facilities is limited to judicial officers, court staff and members of the bar of this court. Books shall not be removed from the library without the consent of the person responsible for the maintenance of the particular library, and shall not be removed from the courthouse under any circumstances. A violation of this local rule shall be punishable as for contempt of court.

Rule 100.2

JURISDICTIONAL AGREEMENTS WITH OTHER COURTS

The clerk shall maintain all jurisdictional agreements entered into by the Chief District Judge of this court and the Chief District Judge of any other United States District Court and a copy of such agreements shall be furnished to counsel upon request.